

Digitized by the Internet Archive  
in 2022 with funding from  
University of Toronto

<https://archive.org/details/31761114709728>



XB  
-B56

3  
F

**BILL 1**

114

Government  
Publications

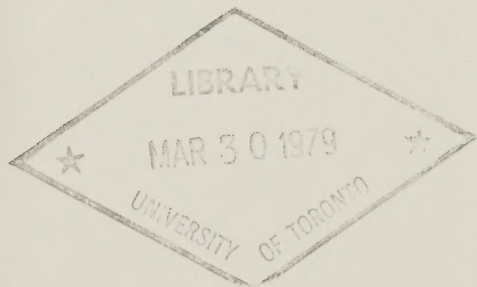
Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

*Legislative Assembly*

**An Act to amend The Quieting Titles Act**

THE HON. R. MCMURTRY  
Attorney General and Solicitor General





3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 FEBRUARY 11 1979

EXPLANATORY NOTE

The amendment supplies an omission made as a typographical error in the publication of the Revised Statutes.

The Hon. R. McMinister  
Attorney General and Solicitor General





BILL 1

1979

## An Act to amend The Quieting Titles Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 24 of *The Quieting Titles Act*, being chapter 396 of the Revised Statutes of Ontario, 1970, is amended by inserting after "in" where it occurs the first time in the eighth line "the". <sup>s. 24, amended</sup>
2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-  
ment</sup>
3. The short title of this Act is *The Quieting Titles Amendment Act, 1979*. <sup>Short title</sup>

---

---

# BILL 1

---

## An Act to amend The Quieting Titles Act

---

*1st Reading*

March 6th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. R. McMURTRY  
Attorney General and Solicitor General

---

*(Government Bill)*

---



3  
F BILL 2

Government Bill

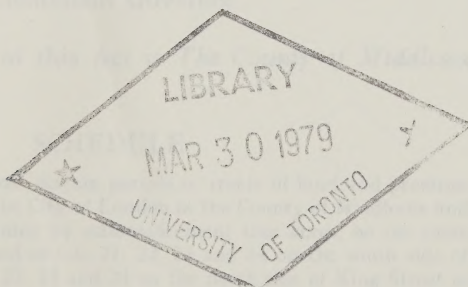
3RD SESSION, 31ST LEGISLATURE, ONTARIO

28 ELIZABETH II, 1979

Legislative Assembly

An Act respecting the County of Middlesex

THE HON. LORNE C. HENDERSON  
Minister of Government Services



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

## EXPLANATORY NOTES

SECTION 1. The purpose of this section is to vest the title of the lands described in the Schedule in The Corporation of the County of Middlesex in fee simple. The lands were granted to the County in 1868 subject to a trust that the lands be used for purposes of the county gaol and courthouse. The lands are no longer required for such purposes.

SECTION 2. This provision will enable the Minister of Government Services to make a grant to The Corporation of the County of Middlesex to assist the County in financing the cost of restoring the former County Court House.

## BILL 2

1979

## An Act respecting the County of Middlesex

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The lands described in the letters patent, dated the 11th day of December, 1868, under the Great Seal of the Province of Ontario and described in the Schedule hereto are hereby vested in The Corporation of the County of Middlesex in fee simple free from any trust set out in the said letters patent. Certain lands vested in County of Middlesex free from trusts
2. The Minister of Government Services, subject to such terms and conditions as the Minister may impose, may make a grant out of the moneys appropriated therefor by the Legislature to The Corporation of the County of Middlesex for the restoration of the building, known as the County Court House, located on the lands described in the Schedule hereto. Grant for restoration of County Court House
3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement
4. The short title of this Act is *The County of Middlesex Act, 1979*. Short title

## SCHEDULE

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the City of London in the County of Middlesex and Province of Ontario containing by admeasurement four acres, be the same more or less, being composed of lots 21, 22, 23 and 24 on the south side of Dundas Street and lots 21, 22, 23 and 24 on the north side of King Street in the said City.



---

## BILL 2

---

An Act respecting  
the County of Middlesex

---

*1st Reading*

March 8th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. LORNE C. HENDERSON  
Minister of Government Services

---

*(Government Bill)*

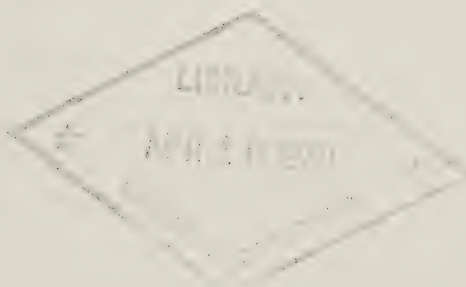
---

**BILL 2**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act respecting the County of Middlesex**

THE HON. LORNE C. HENDERSON  
Minister of Government Services



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO





## BILL 2

1979

## An Act respecting the County of Middlesex

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The lands described in the letters patent, dated the 11th day of December, 1868, under the Great Seal of the Province of Ontario and described in the Schedule hereto are hereby vested in The Corporation of the County of Middlesex in fee simple free from any trust set out in the said letters patent. Certain lands vested in County of Middlesex free from trusts

2. The Minister of Government Services, subject to such terms and conditions as the Minister may impose, may make a grant out of the moneys appropriated therefor by the Legislature to The Corporation of the County of Middlesex for the restoration of the building, known as the County Court House, located on the lands described in the Schedule hereto. Grant for restoration of County Court House

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

4. The short title of this Act is *The County of Middlesex Act, 1979*. Short title

## SCHEDULE

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the City of London in the County of Middlesex and Province of Ontario containing by admeasurement four acres, be the same more or less, being composed of lots 21, 22, 23 and 24 on the south side of Dundas Street and lots 21, 22, 23 and 24 on the north side of King Street in the said City.

---

## BILL 2

---

An Act respecting  
the County of Middlesex

---

*1st Reading*

March 8th, 1979

*2nd Reading*

March 27th, 1979

*3rd Reading*

March 29th, 1979

---

THE HON. LORNE C. HENDERSON  
Minister of Government Services

---

3RD SESSION, 31ST LEGISLATURE / ONTARIO  
28 ELIZABETH II, 1979

An Act to amend  
The Employment Standards Act, 1974

MR. BOUNSALL



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTE

The purpose of the Bill is to require an employer to pay the employer's employees an equal amount for work of equal value. An assessment of the value of work may be made by an employment standards officer. Differentials in pay are permitted but no differential may be based on the sex of the employee.

BILL 3

1979

**An Act to amend  
The Employment Standards Act, 1974**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 33 of *The Employment Standards Act, 1974*, being chapter 112, is repealed and the following substituted therefor: s. 33,  
re-enacted

PART IX

EQUAL PAY FOR WORK OF EQUAL VALUE

33.—(1) No employer or person acting on behalf of an employer shall establish or maintain any difference in wages paid to a male and to a female employee employed in the same establishment who are performing work of equal value unless the difference is based on seniority or quantity of production. Equal pay  
for work  
of equal  
value

(2) An employment standards officer may assess the value of work performed for the purposes of subsection 1 and, where the officer finds that an employer has failed to comply with subsection 1, the officer may determine the amount of moneys owing to an employee because of such non-compliance, and such amount shall be deemed to be unpaid wages. Determination  
by employment  
standards  
officer

(3) In assessing the value of work performed by employees employed in the same establishment, the criterion to be applied is the composite of the skill, effort and responsibility required in the performance of the work and the conditions under which the work is performed. Assessment of  
value of work

(4) No employer shall reduce the rate of pay of an employee in order to comply with subsection 1. Pay not  
to be  
reduced

(5) No organization of employers or employees or its agents shall cause or attempt to cause an employer to agree Employer  
not to be  
requested  
to contravene  
subs. 1

to or to pay to his employees wages that are in contravention of subsection 1.

Commence-  
ment

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

3. The short title of this Act is *The Employment Standards Amendment Act, 1979*.









An Act to amend  
The Employment Standards Act, 1974

*1st Reading*

March 8th, 1979

*2nd Reading*

*3rd Reading*

MR. BOUNSALL

*(Private Member's Bill)*

A + 20  
X B  
- B56

3

BILL 4

Government  
Publications

Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

*Legislative Assembly*

**An Act respecting  
the Rights of Non-Unionized Workers**

MR. HAGGERTY



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTE

The purpose of the Bill is to provide a low cost mechanism whereby a non-unionized worker may obtain a review by the Ontario Labour Relations Board where the worker is discharged or otherwise disciplined for cause and the contract of employment is silent on matters of discipline. At the present time, a non-unionized worker who is dismissed or otherwise disciplined for cause may have no right of action against his employer notwithstanding the fact that the discipline is, having regard to all of the circumstances, unduly harsh.

The Bill provides a two stage process for reviewing complaints involving harsh discipline. Initially, a labour relations officer would be appointed to effect a settlement which would be reduced to writing and which would have to be complied with according to its terms. Then, if no settlement is reached, or where settlement is not likely, the Ontario Labour Relations Board would inquire into the matter. The Board, if satisfied that the complaint is justified, will have the power to make an order substituting such penalty as is just and reasonable in the circumstances.

BILL 4

1979

## An Act respecting the Rights of Non-Unionized Workers

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-  
tation

(a) "Board" means the Ontario Labour Relations Board;

(b) "complaint" means a complaint filed with the Board under subsection 1 of section 2.

2.—(1) Where an employee, who is not subject to a collective agreement under *The Labour Relations Act*, has been discharged or otherwise disciplined by his employer for cause and the contract of employment does not contain a specific penalty for the infraction for which the discharge or other discipline was imposed, where the employee is of the opinion that the penalty is unduly harsh, the employee may file a complaint with the Board.

Complaints  
to O.L.R.B.  
where  
employee  
discharged  
or otherwise  
disciplined  
R.S.O. 1970,  
c. 232

(2) Any regulations governing the practice and procedure of the Board apply, with necessary modifications, to a review under subsection 2 of section 3 and to a complaint.

Procedure

(3) The Board may authorize a labour relations officer to inquire into a complaint.

Inquiry  
by labour  
relations  
officer

(4) The labour relations officer shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter.

Duties

(5) The labour relations officer shall report the results of his inquiry and endeavours to the Board.

Report

(6) Where a labour relations officer is unable to effect a settlement of the complaint or where the Board in its dis-

Remedy

cretion considers it advisable to dispense with an inquiry by a labour relations officer, the Board may inquire into the complaint and where the Board is satisfied that the discharge or other discipline imposed was unduly harsh, the Board may, by order, substitute such other penalty for the discharge or other discipline as to the Board seems just and reasonable in all the circumstances.

Idem

(7) Without limiting the generality of subsection 6,

- (a) where an employee has been discharged, the Board, in an order made under subsection 6, may order that the employee be reinstated in employment, with or without compensation or that the employee be compensated in lieu of reinstatement for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer;
- (b) where an employee has been suspended, the Board, in an order made under subsection 6, may order that the employee be compensated for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer.

Effect of  
settlement

**3.—**(1) Where a complaint has been settled whether through the endeavours of the labour relations officer or otherwise, and the terms of the settlement have been put in writing and signed by the employer or his representative and the employee, the settlement is binding upon the employer and the employee and shall be complied with according to its terms.

Review of  
settlement

(2) Where either the employer or the employee alleges that the other party has breached any term of a settlement referred to in subsection 1, the employer or the employee, as the case may be, may apply to the Board for a review of the matter and the Board, after an inquiry, may order that,

- (a) the employee or employer comply with the terms of the settlement; or
- (b) vary the terms of the settlement and order compliance with the terms of the settlement as varied.

Enforce-  
ment of  
orders

**4.** Where either the employer or the employee has failed to comply with any of the terms of an order made under subsection 6 of section 2 or subsection 2 of section 3 the

other party may, after the expiration of fourteen days from the date of the order or the date provided in the order for compliance, whichever is later, notify the Board in writing of such failure, and thereupon the Board shall file in the office of the Registrar of the Supreme Court a copy of the order, exclusive of the reasons therefor, if any, in the prescribed form, whereupon the order shall be entered in the same way as a judgment or order of that court and is enforceable as such.

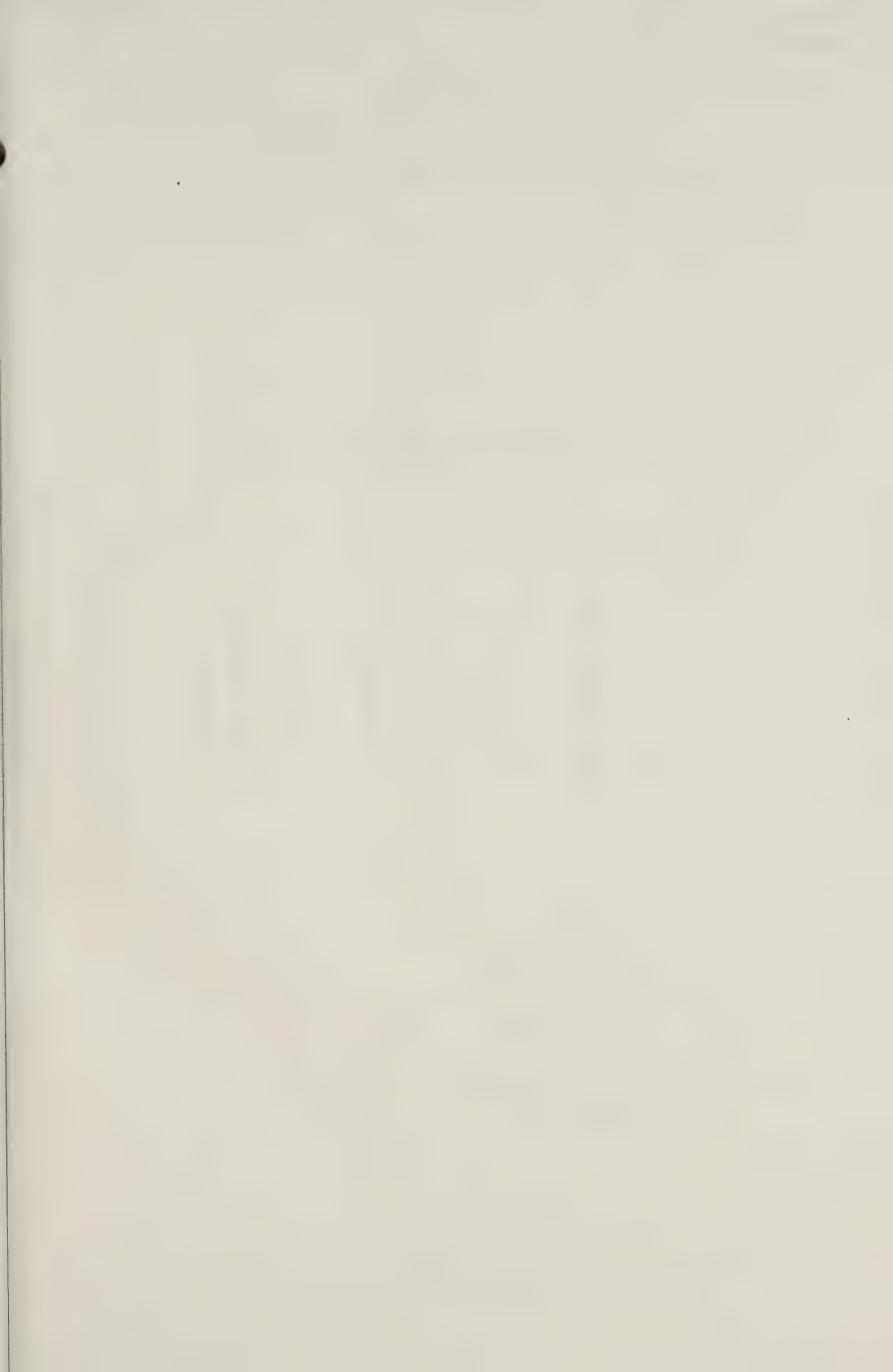
5. The rights conferred by this Act are in addition to any other rights that an employee may have at law but, <sup>No derogation of rights</sup> where a complaint is filed, any action brought by the employee in a court of law related to the discharge or discipline of the employee may be stayed pending the disposition of the matter by the Board.

6. This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent.<sup>ment</sup>

7. The short title of this Act is *The Non-Unionized* <sup>Short title</sup> *Workers Protection Act, 1979.*







An Act respecting the  
Rights of Non-Unionized Workers

*1st Reading*

March 8th, 1979

*2nd Reading*

*3rd Reading*

MR. HAGGERTY

*(Private Member's Bill)*

3  
F  
BILL 5

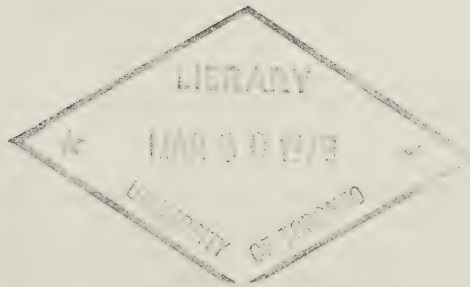
Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

Legislative Assembly of Ontario

An Act to amend  
The Pits and Quarries Control Act, 1971

MR. WARNER



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The purpose of the Bill is to authorize the Minister of Natural Resources to direct that a pit or quarry be graded or filled in when it constitutes a danger to the public and is no longer in operation in order to ensure public safety.

BILL 5

1979

**An Act to amend  
The Pits and Quarries Control Act, 1971**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of *The Pits and Quarries Control Act, 1971*, being chapter 96, is repealed and the following substituted therefor: s. 2,  
re-enacted

2.—(1) This Act, except section 20a, applies only in such parts of Ontario as are designated by the Lieutenant Governor in Council by regulation. Application  
of Act

(2) Section 20a applies in all parts of Ontario. Idem

2. Section 20 of the said Act is amended by adding thereto the following subsection: s. 20,  
amended

(4) Notwithstanding subsections 1, 2 and 3, section 20a of this Act applies to every pit and quarry in Ontario whether or not the pit or quarry was in operation on the day *The Pits and Quarries Control Amendment Act, 1979* came into force. Application  
of s. 20a  
1979, c.

3. The said Act is amended by adding thereto the following section: s. 20a,  
enacted

20a.—(1) Notwithstanding anything in this Act, where the Minister is of the opinion that an abandoned pit or quarry or a pit or quarry at which operations have ceased constitutes a danger to the public, the Minister may direct the operator of the pit or quarry or the owner of the premises on which the pit or quarry is situate, or both of them, to level and grade the floor thereof, or to fill in the pit or quarry or to take such other steps that will ensure the pit or quarry is in a safe condition. Minister's  
direction re  
unsafe pit or  
quarry



Idem

(2) If an operator or owner does not comply with a direction of the Minister under subsection 1, the Minister may authorize any person or persons to enter upon the premises on which the pit or quarry is situate and perform such work as is required by the direction and the operator or owner, as the case may be, is liable for the cost thereof.

Commence-  
ment

**4.** This Act comes into force on the day it receives Royal Assent.

Short title

**5.** The short title of this Act is *The Pits and Quarries Control Amendment Act, 1979*.







---

An Act to amend  
The Pits and Quarries Control  
Act, 1971

---

*1st Reading*

March 8th, 1979

*2nd Reading*

*3rd Reading*

---

MR. WARNER

---

*(Private Member's Bill)*

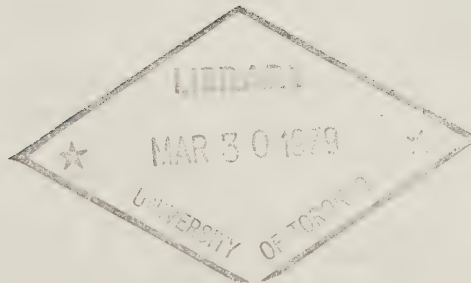


3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

*Legislative Council*

**An Act to amend  
The Labour Relations Act**

MR. HAGGERTY



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The purpose of the Bill is to provide a mechanism whereby the Lieutenant Governor in Council can order a sixty-day suspension of a strike or lock-out and order a return to work where the strike or lock-out constitutes an immediate and serious danger to life, health or safety or seriously disrupts the economy of the province or any area of the province.

The Bill provides that the Minister of Labour must appoint a conciliation officer where an order suspending a strike or lock-out has been made and may subsequently appoint a conciliation board where the efforts of the conciliation officer to effect a collective agreement are unsuccessful.

If conciliation efforts are unsuccessful, the strike or lock-out may be resumed without a further strike vote.

An order made under the Bill would be enforceable as an order of the Supreme Court.

BILL 6

1979

## An Act to amend The Labour Relations Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 16 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:

(3) This section does not apply where an order has been made under subsection 1 of section 47a. Application

2. The said Act is amended by adding thereto the following section: s. 47a,  
enacted

### SUSPENSION OF STRIKES OR LOCK-OUTS

47a.—(1) Where during a strike or lock-out the Lieutenant Governor in Council is of the opinion that the strike or lock-out, Lieutenant  
Governor  
in Council  
may by order  
suspend a  
strike or  
lock-out  
and order  
a return  
to work

- (a) constitutes an immediate and serious danger to life, health or safety; or
- (b) seriously disrupts the economy of the Province or any area of the Province,

the Lieutenant Governor in Council may,

- (c) order a suspension of the strike or lock-out and order a return to work for a period not exceeding sixty days in length, commencing on the day next following the date of the order; or
- (d) designate, by order, those facilities and services that the Lieutenant Governor in Council considers necessary or essential to prevent immediate and

serious danger to life, health or safety and the Lieutenant Governor in Council may order the suspension of the strike or lock-out and order a return to work with respect to the facilities and services so designated for a period not exceeding sixty days in length, commencing on the day next following the date of the order.

Appointment  
of conciliation  
officer and  
conciliation  
board

(2) Where an order is made under clause *c* or *d* of subsection 1, the Minister shall appoint a conciliation officer and may subsequently appoint a conciliation board and sections 17 to 31 apply *mutatis mutandis* to such appointments.

Resumption  
of strike  
or lock-out

(3) Notwithstanding subsection 1, where the Minister gives a notice to the parties under clause *b* of section 18 or where a conciliation board report released under subsection 5 of section 31 indicates that the parties are unable to effect a collective agreement, the parties may immediately resume the strike or lock-out without taking a new strike vote on the date such notice is given or such report is released.

Enforcement  
of orders

(4) The Minister may file in the office of the Registrar of the Supreme Court a copy of an order made under subsection 1, in the prescribed form, whereupon the order shall be entered in the same way as a judgment or order of that court and is enforceable by the Minister or by a trade union or employer affected as a judgment or order of that court.

Limitation  
on orders

(5) The Lieutenant Governor in Council shall not make an order under subsection 1 more than once in respect of the same dispute.

R.S.O. 1970,  
c. 410,  
does not apply

(6) *The Regulations Act* does not apply to an order made under subsection 1.

Commence-  
ment

**3.** This Act comes into force on the day it receives Royal Assent.

Short title

**4.** The short title of this Act is *The Labour Relations Amendment Act, 1979*.









---

---

An Act to amend  
The Labour Relations Act

---

*1st Reading*

March 8th, 1979

*2nd Reading*

*3rd Reading*

---

MR. HAGGERTY

---

(*Private Member's Bill*)

AS-8N  
KB  
-B56

3  
BILL 7

Government  
Publications

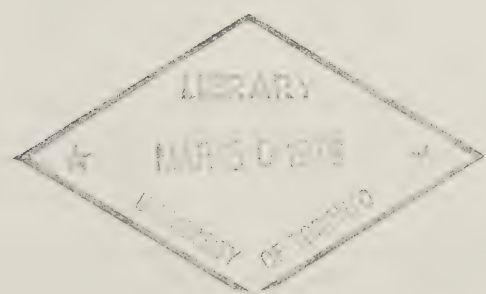
Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

*Legislative Assembly of Ontario*

# An Act to amend The Milk Act

THE HON. W. NEWMAN  
Minister of Agriculture and Food



#### EXPLANATORY NOTE

The purpose of the Bill is to empower the Lieutenant Governor in Council to grant authority to the Canadian Dairy Commission to regulate within Ontario the marketing of a regulated product or a milk product.

BILL 7

1979

## An Act to amend The Milk Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Milk Act*, being chapter 273 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

26.—(1) The Lieutenant Governor in Council may grant authority to the Canadian Dairy Commission to regulate the marketing within Ontario of a regulated product or a milk product and for such purposes,

s. 26,  
enacted

Authority  
may be  
granted to  
Canadian  
Dairy  
Commission

- (a) to exercise any power that it may exercise in relation to the marketing of such regulated product or milk product in interprovincial or export trade;
- (b) to exercise, in relation to the marketing of such regulated product, any power that may be exercised by a marketing board in relation to a regulated product; and
- (c) to exercise, in relation to the marketing of such milk product, any power that is like a power that may be exercised by a marketing board in relation to a regulated product.

(2) Where authority is granted under subsection 1 in relation to any milk product, such milk product shall be deemed to be,

Milk product  
deemed to be  
a regulated  
product

- (a) a regulated product for the purposes of *The Commodity Boards and Marketing Agencies Act, 1978*; and
- (b) the regulated product in relation to the marketing of which a levy is fixed, imposed and collected under

1978, c. 30

1978, c. 30

*The Commodity Boards and Marketing Agencies  
Act, 1978.*

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** The short title of this Act is *The Milk Amendment Act, 1979*.









---

An Act to amend The Milk Act

---

*1st Reading*

March 9th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. W. NEWMAN  
Minister of Agriculture and Food

---

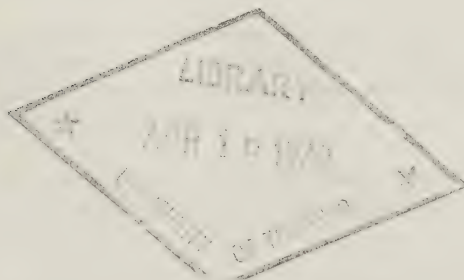
*(Government Bill)*

*XB*  
*-B 56*  
*F*  
**BILL 7**

3RD SESSION, 31ST LEGISLATURE, *1* ONTARIO  
28 ELIZABETH II, 1979 *Legislative Assembly*

**An Act to amend The Milk Act**

THE HON. W. NEWMAN  
Minister of Agriculture and Food





BILL 7

1979

## An Act to amend The Milk Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Milk Act*, being chapter 273 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: <sup>s. 26, enacted</sup>

26.—(1) The Lieutenant Governor in Council may grant authority to the Canadian Dairy Commission to regulate the marketing within Ontario of a regulated product or a milk product and for such purposes, <sup>Authority may be granted to Canadian Dairy Commission</sup>

- (a) to exercise any power that it may exercise in relation to the marketing of such regulated product or milk product in interprovincial or export trade;
  - (b) to exercise, in relation to the marketing of such regulated product, any power that may be exercised by a marketing board in relation to a regulated product; and
  - (c) to exercise, in relation to the marketing of such milk product, any power that is like a power that may be exercised by a marketing board in relation to a regulated product.
- (2) Where authority is granted under subsection 1 in relation to any milk product, such milk product shall be deemed to be, <sup>Milk product deemed to be a regulated product</sup>
- (a) a regulated product for the purposes of *The Commodity Boards and Marketing Agencies Act, 1978*; <sup>1978, c. 30</sup> and
  - (b) the regulated product in relation to the marketing of which a levy is fixed, imposed and collected under

1978, c. 30

*The Commodity Boards and Marketing Agencies  
Act, 1978.*

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** The short title of this Act is *The Milk Amendment Act, 1979*.









---

An Act to amend The Milk Act

---

*1st Reading*

March 9th, 1979

*2nd Reading*

March 27th, 1979

*3rd Reading*

March 29th, 1979

---

THE HON. W. NEWMAN  
Minister of Agriculture and Food

---

420N  
10  
-156

3  
17  
11

**BILL 8**

**Government Bill**

Government  
Public

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

Legislative Assembly

**An Act to amend The Trees Act**

THE HON. J. A. C. AULD  
Minister of Natural Resources and Minister of Energy



#### EXPLANATORY NOTES

SECTION 1. Section 1 of the Act is an interpretation section and is amended by the addition of definitions that complement other sections of the Bill.

SECTION 2. Section 4 of the Act now reads as follows:

*4. Subject to the approval of the Minister of Lands and Forests, the council of any county, or any municipality separated from the county for municipal purposes, or any municipality in a territorial district, may pass by-laws,*

*(a) restricting and regulating the destruction of trees by cutting, burning or other means; and*

*(b) providing for the appointment of officers to enforce the provisions of any by-law passed under this section.*

The amendment to what will now be subsection 1 of section 4 provides that the approval of the Minister to a by-law must be written. The authority of the council of a municipality in a territorial district to pass a by-law is removed.

## An Act to amend The Trees Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Trees Act*, being chapter 468 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses: <sup>s. 1, amended</sup>

(aa) "dbh" means the diameter of the stem of a tree measured at a point that is four and one-half feet above ground;

. . . . .

(c) "Minister" means the Minister of Natural Resources;

(d) "regulations" means the regulations made under this Act;

(e) "woodlot" means an area having not less than,

(i) 400 trees per acre of any size,

(ii) 300 trees per acre measuring more than two inches dbh,

(iii) 200 trees per acre measuring more than five inches dbh, or

(iv) 100 trees per acre measuring more than eight inches dbh.

2. Section 4 of the said Act is repealed and the following substituted therefor: <sup>s. 4, re-enacted</sup>

4.—(1) Subject to the written approval of the Minister, the council of any county or of any municipality separated from the county for municipal purposes may pass by-laws, <sup>By-law restricting cutting of trees</sup>

- (a) restricting and regulating the destruction of trees by cutting, burning or other means; and
- (b) providing for the appointment of officers to enforce the provisions of any by-law passed under this section.

Entry  
on land

(2) An officer appointed under a by-law passed under subsection 1, or any predecessor thereof, and any person acting under his instructions may at all reasonable times enter upon and inspect the land of any person for the purpose of enforcing the provisions of any such by-law or inspecting land where an application has been made under subsection 1 of section 7b.

Territorial  
limitation  
of by-law

(3) A by-law passed under subsection 1, or any predecessor thereof, may be limited territorially.

Approval  
of by-law

(4) The approval referred to in subsection 1 may be given before or after the by-law is passed.

Validity  
of past  
approvals  
of by-law

(5) Every approval heretofore given under any predecessor of subsection 1 shall be deemed to be valid whether given before or after the by-law was passed.

s. 5,  
re-enacted

**3.** Section 5 of the said Act is repealed and the following substituted therefor:

Exceptions

5.—(1) A by-law passed under subsection 1 of section 4, or any predecessor thereof, does not,

- (a) interfere with the right of a person who has been the registered owner of land for at least two years to cut trees thereon for his own use;
- (b) interfere with any rights or powers conferred upon a municipality by *The Municipal Act*;
- (c) interfere with any rights or powers of Ontario Hydro or of any agency, board or commission that is performing its functions for or on behalf of the Crown;
- (d) apply to trees growing upon any highway or upon any opened road allowance;
- (e) apply to trees growing in a woodlot having an area not exceeding two acres;
- (f) apply to trees destroyed in order to erect any building, structure or thing in respect of which a building permit is issued;

R.S.O. 1970,  
c. 284

Subsection 2 permits an officer and any person acting under his direction to enter upon any land to enforce the provisions of a by-law or to inspect land where an application has been made under subsection 1 of section 7*b* of the Act.

Subsection 3 permits by-laws to be limited territorially.

Subsection 4 clarifies when the Minister may approve a by-law.

Subsection 5 validates all prior approvals whether given before or after the by-law was passed.

SECTION 3. Section 5 of the Act now reads as follows:

5. *A by-law passed under section 4 does not,*

- (a) interfere with the right of a person who has been the registered owner of land for at least two years to cut trees thereon for his own use;*
- (b) interfere with any rights or powers conferred upon a municipality by The Municipal Act;*
- (c) interfere with any rights or powers of The Hydro-Electric Power Commission of Ontario or of any other board or commission that is performing its functions for or on behalf of the Government of Ontario;*
- (d) apply to trees growing upon any highway or upon any opened road allowance; or*
- (e) apply to trees growing in a woodlot having an area not exceeding two acres.*

Clause *c* is updated to refer to Ontario Hydro and extended to agencies of the Crown.

Clause *f* creates an exception to a by-law in respect of trees to be destroyed in the course of construction.

Clause *g* creates an exception to a by-law in respect of Christmas trees.

Clause *h* creates an exception to a by-law in cases where an Ontario land surveyor must cut trees to perform a survey.

Clause *i* creates an exception to a by-law where trees are on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry.

Clause *j* creates an exception to a by-law where trees are removed from land in establishing or enlarging a pit or quarry on land that is not subject to *The Pits and Quarries Control Act, 1971*.

Clause *k* creates an exception to a by-law in respect of trees that are cut in accordance with good forestry practice.

Clause *l* creates an exception to a by-law in any other case provided for in the regulations.



SECTION 4. Section 6 of the Act now reads as follows:

*6. Every person who contravenes the provisions of any by-law passed pursuant to section 4 is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than three months.*

Clause *a* of subsection 1 of the re-enacted section 6 creates an offence where a person by himself or through an intermediary contravenes a by-law.

Clause *b* of that subsection creates a new offence for obstructing an officer or any person acting on his instructions in discharging their duties.

Clause *c* of that subsection creates an offence where a person fails to obey an order to replant an area on which trees have been destroyed.

The maximum fine for an offence is increased from \$500 to \$5,000.

Subsection 2 of the re-enacted section 6 permits the trial judge to order the owner of land to replant an area on which trees have been destroyed in contravention of a by-law.

- (g) apply to trees planted for the production of Christmas trees;
- (h) apply to trees cut by an Ontario land surveyor registered under *The Surveyors Act* or any person <sup>R.S.O. 1970, c. 452</sup> in his employ while making a survey;
- (i) apply to trees on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under *The Pits and Quarries Control Act, 1971*; <sup>1971, c. 96</sup>
- (j) apply to trees destroyed in order to lawfully establish and operate or enlarge any pit or quarry on land that has not been designated under section 2 of *The Pits and Quarries Control Act, 1971*;
- (k) apply to trees that are cut in accordance with good forestry practice; or
- (l) apply in any other case provided for in the regulations.

(2) The expression "own use" in clause *a* of subsection 1 shall be deemed not to include any sale, exchange or other disposition of the trees that are cut. <sup>"own use" does not include sale, etc.</sup>

4. Section 6 of the said Act is repealed and the following substituted therefor: <sup>s. 6, re-enacted</sup>

6.—(1) Every person who, Offences

- (a) by himself or through any other person, contravenes any provision of a by-law passed under subsection 1 of section 4, or any predecessor thereof;
- (b) obstructs, hinders or interferes with an officer appointed under a by-law passed under subsection 1 of section 4, or any predecessor thereof, or any person acting under his instructions, in the discharge of his duties; or
- (c) fails or neglects, without just cause, to carry out an order made against him under subsection 2,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than three months, or to both.

(2) Where a person is convicted of an offence under clause *a* of subsection 1, the judge shall consider all evidence given <sup>Replanting</sup>

in respect of the necessity of replanting the area on which trees have been destroyed and may order the owner of the said area to replant or have replanted thereon such trees in such manner and within such period of time as the judge considers just.

ss. 7a, 7b,  
enacted

5. The said Act is amended by adding thereto the following sections:

Evidence in  
prosecutions

7a. In any prosecution under this Act,

R.S.O. 1970,  
cc. 409, 234

- (a) a copy of an instrument certified under section 17 of *The Registry Act* or a certificate of search issued under section 127 of *The Land Titles Act* is admissible in evidence as *prima facie* proof of the matters therein contained; and
- (b) a certificate of the Minister or Deputy Minister of Natural Resources in respect of the right, title and interest of the Crown in any trees on any land is admissible in evidence as *prima facie* proof of the matters therein contained.

Application  
for minor  
exception

7b.—(1) Upon the application of the owner of any trees affected by a by-law passed under subsection 1 of section 4, or any predecessor thereof, or any person authorized in writing by the owner, the council of the municipality that passed the by-law may, by by-law or resolution, authorize such minor exception from the by-law in respect of such trees as in its opinion is desirable for the appropriate development or use of the land on which such trees are situate, if in its opinion the general intent and purpose of the by-law is maintained.

Notice of  
application

(2) Where the council of a municipality receives an application under subsection 1, the clerk of the municipality shall give notice of the application to the owners of each parcel of land that abuts the land of the owner of the trees in respect of which the application is made and to such other owners as the council considers proper.

Service of  
notice

(3) A notice under subsection 2 shall be deemed to be sufficiently given if served upon an owner,

- (a) personally;
- (b) by leaving it at his or her place of business or residence;
- (c) by registered mail addressed to his or her place of business or residence, if known, or to his or her

SECTION 5. Clause *a* of the new section 7*a* provides that in any prosecution a copy of an instrument certified under *The Registry Act* or a certificate of search under *The Land Titles Act* is admissible in evidence as *prima facie* proof of its content.

Clause *b* of that section provides that the production of a certificate of the Minister of Natural Resources or his Deputy Minister in respect of the right, title and interest of the Crown in any trees is admissible in evidence as *prima facie* proof of its content.

Section 7*b* empowers the council of a municipality to authorize, by by-law or resolution, a minor exception to a by-law passed under subsection 1 of section 4 of the Act and sets out the procedures to be followed when the council receives an application for a minor exception to the by-law.



place of business or residence as set forth in the last revised assessment roll of the municipality in which the land is situate; or

- (d) if the place of business and residence of the owner are not known, by leaving it with any person being at least sixteen years of age on the land of the owner or by posting it in two conspicuous places on such land.

(4) A notice under subsection 2 shall contain,

Content of  
notice

- (a) the name and address of the owner who has made the application for a minor exception or on whose behalf the application has been made;
- (b) a description of the land of the owner in respect of which the application has been made;
- (c) a description of the nature and extent of the trees on such land;
- (d) a description of the purpose, nature and extent of the minor exception for which application has been made; and
- (e) the hour, day and place of the meeting at which the council will consider passing a by-law or resolution under subsection 1.

(5) The clerk of the municipality shall give notice in such manner as he considers proper to the owner who has made the application or on whose behalf the application has been made of the hour, day and place of the meeting at which the council will consider passing a by-law or resolution under subsection 1.

Notice to  
applicant

(6) No meeting of the council shall be held to consider passing a by-law or resolution under subsection 1 unless,

Conditions  
precedent

- (a) twenty-one days have elapsed after required notices have been given in accordance with this section; and
- (b) the giving of such notices is proved by affidavit or declaration.

(7) The council shall hear in person, or by his counsel or agent, the applicant and any person who claims that his land will be prejudicially affected by the by-law or resolution.

Entitlement  
to be  
heard

Approval of  
Minister  
not required

(8) No by-law or resolution passed under subsection 1 requires the approval of the Minister.

s. 11 (3),  
re-enacted

- 6.** Subsection 3 of section 11 of the said Act is repealed and the following substituted therefor:

Cutting

(3) Every such agreement shall prescribe the conditions under which the cutting of timber upon such portions may be carried out and such conditions are subject to the approval of the Minister.

s. 12,  
re-enacted

- 7.** Section 12 of the said Act is repealed and the following substituted therefor:

Approval of  
by-law by  
Minister

12. No by-law shall be finally passed under section 7, 8, 9, 10 or 11 until approved in writing by the Minister.

s. 13,  
enacted

- 8.** The said Act is further amended by adding thereto the following section:

Regulations

13. The Lieutenant Governor in Council may make regulations providing for exceptions, in addition to those specified in subsection 1 of section 5, from a by-law passed under subsection 1 of section 4, or any predecessor thereof.

Commence-  
ment

- 9.** This Act comes into force on the day it receives Royal Assent.

Short title

- 10.** The short title of this Act is *The Trees Amendment Act, 1979*.



SECTION 6. Subsection 3 of section 11 of the Act now reads as follows:

- (3) *Every such agreement shall prescribe the conditions under which the cutting of timber upon such portions may be carried out and such conditions are subject to the approval of the Minister of Lands and Forests.*

Subsection 3 is re-enacted to change an internal reference to the Minister of Lands and Forests to a reference to the Minister. "Minister" is defined in section 1 of the Act, as amended by section 1 of the Bill, as meaning the Minister of Natural Resources.

SECTION 7. Section 12 of the Act now reads as follows:

- 12. No by-law shall be finally passed under section 7, 8, 9, 10 or 11 until approved in writing by the Minister of Lands and Forests.*

Section 12 is re-enacted to change an internal reference to the Minister of Lands and Forests to a reference to the Minister.

SECTION 8. The new section 13 authorizes the Lieutenant Governor in Council to make regulations creating additional exceptions to a by-law.







# BILL 8

---

An Act to amend The Trees Act

---

*1st Reading*

March 9th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. J. A. C. AULD  
Minister of Natural Resources and  
Minister of Energy

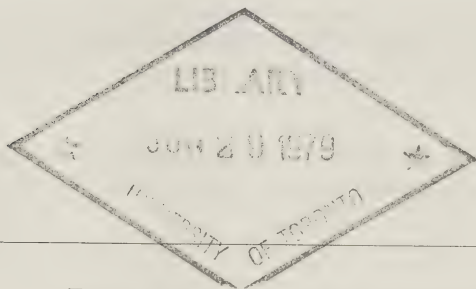
---

*(Government Bill)*

---

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend The Trees Act**



THE HON. J. A. C. AULD  
Minister of Natural Resources and Minister of Energy

*(Reprinted as amended by the Committee of the Whole House)*

## EXPLANATORY NOTES

SECTION 1. Section 1 of the Act is an interpretation section and is amended by the addition of definitions that complement other sections of the Bill.

SECTION 2. The maximum fine for injuring trees is increased from \$25 to \$1,000.

SECTION 3. Section 4 of the Act now reads as follows:

*4. Subject to the approval of the Minister of Lands and Forests, the council of any county, or any municipality separated from the county for municipal purposes, or any municipality in a territorial district, may pass by-laws,*

- (a) restricting and regulating the destruction of trees by cutting, burning or other means; and*
- (b) providing for the appointment of officers to enforce the provisions of any by-law passed under this section.*

The amendment to what will now be subsection 1 of section 4 provides that the approval of the Minister to a by-law must be written. The authority of the council of a municipality in a territorial district to pass a by-law is removed.

BILL 8

1979

## An Act to amend The Trees Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Trees Act*, being chapter 468 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses: s. 1,  
amended

(aa) "dbh" means the diameter of the stem of a tree measured at a point that is four and one-half feet above ground;

. . . . .

(c) "Minister" means the Minister of Natural Resources;

(d) "woodlot" means an area having not less than,

(i) 400 trees per acre of any size,

(ii) 300 trees per acre measuring more than two inches dbh,

(iii) 200 trees per acre measuring more than five inches dbh, or

(iv) 100 trees per acre measuring more than eight inches dbh.

2. Section 3 of the said Act is amended by striking out "not more than \$25" in the seventh line and inserting in lieu thereof "not more than \$1,000". s. 3,  
amended

3. Section 4 of the said Act is repealed and the following substituted therefor: s. 4,  
re-enacted

4.—(1) Subject to the written approval of the Minister, the council of any county or of any municipality separated from the county for municipal purposes may pass by-laws, By-law  
restricting  
cutting of  
trees

- (a) restricting and regulating the destruction of trees by cutting, burning or other means; and
- (b) providing for the appointment of officers to enforce the provisions of any by-law passed under this section.

Entry  
on land

(2) An officer appointed under a by-law passed under subsection 1, or any predecessor thereof, and any person acting under his instructions may at all reasonable times enter upon the land of any person for the purpose of,

- (a) enforcing such by-law;
- (b) determining compliance with an order made under subsection 2 of section 6; or
- (c) examining trees that might be affected by a minor exception authorized under subsection 1 of section 7b.

Territorial  
limitation  
of by-law

(3) A by-law passed under subsection 1, or any predecessor thereof, may be limited territorially.

Approval  
of by-law

(4) The approval referred to in subsection 1 may be given before or after the by-law is passed.

Validity  
of past  
approvals  
of by-law

(5) Every approval heretofore given under any predecessor of subsection 1 shall be deemed to be valid whether given before or after the by-law was passed.

s. 5,  
re-enacted

4. Section 5 of the said Act is repealed and the following substituted therefor:

Exceptions

5.—(1) A by-law passed under subsection 1 of section 4, or any predecessor thereof, does not,

- (a) interfere with the right of a person who has been the registered owner of land for at least two years to cut trees thereon for his own use;
- (b) interfere with any rights or powers conferred upon a municipality by *The Municipal Act*;
- (c) interfere with any rights or powers of Ontario Hydro or of any agency, board or commission that is performing its functions for or on behalf of the Crown;
- (d) apply to trees growing upon any highway or upon any opened road allowance;

R.S.O. 1970,  
c. 284

Subsection 2 permits an officer and any person acting under his direction to enter upon any land to enforce the provisions of a by-law or to inspect land where an application has been made under subsection 1 of section 7b of the Act.

Subsection 3 permits by-laws to be limited territorially.

Subsection 4 clarifies when the Minister may approve a by-law.

Subsection 5 validates all prior approvals whether given before or after the by-law was passed.

SECTION 4. Section 5 of the Act now reads as follows:

5. *A by-law passed under section 4 does not,*

- (a) interfere with the right of a person who has been the registered owner of land for at least two years to cut trees thereon for his own use;*
- (b) interfere with any rights or powers conferred upon a municipality by The Municipal Act;*
- (c) interfere with any rights or powers of The Hydro-Electric Power Commission of Ontario or of any other board or commission that is performing its functions for or on behalf of the Government of Ontario;*
- (d) apply to trees growing upon any highway or upon any opened road allowance; or*
- (e) apply to trees growing in a woodlot having an area not exceeding two acres.*

Clause *c* is updated to refer to Ontario Hydro and extended to agencies of the Crown.

Clause *f* creates an exception to a by-law in respect of trees to be destroyed in the course of construction.

Clause *g* creates an exception to a by-law in respect of Christmas trees.

Clause *h* creates an exception to a by-law in cases where an Ontario land surveyor must cut trees to perform a survey.

Clause *i* creates an exception to a by-law where trees are on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry.

Clause *j* creates an exception to a by-law where trees are removed from land in establishing or enlarging a pit or quarry on land that is not subject to *The Pits and Quarries Control Act, 1971*.

Clause *k* creates an exception to a by-law in respect of trees that are cut in accordance with good forestry practice.

Clause *l* creates an exception to a by-law in any other case provided for in the regulations.



SECTION 5. Section 6 of the Act now reads as follows:

*6. Every person who contravenes the provisions of any by-law passed pursuant to section 4 is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than three months.*

Clause *a* of subsection 1 of the re-enacted section 6 creates an offence where a person by himself or through an intermediary contravenes a by-law.

Clause *b* of that subsection creates a new offence for obstructing an officer or any person acting on his instructions in discharging their duties.

Clause *c* of that subsection creates an offence where a person fails to obey an order to replant an area on which trees have been destroyed.

The maximum fine for an offence is increased from \$500 to \$5,000.

Subsection 2 of the re-enacted section 6 permits the trial judge to order the owner of land to replant an area on which trees have been destroyed in contravention of a by-law and to adequately maintain the replanted trees in such manner as the judge considers proper.

- (e) apply to trees growing in a woodlot that is two acres or less in area, unless the by-law provides expressly that it applies to trees in such a woodlot;
- (f) apply to trees destroyed in order to erect any building, structure or thing in respect of which a building permit is issued;
- (g) apply to trees planted for the production of Christmas trees;
- (h) apply to trees cut by an Ontario land surveyor registered under *The Surveyors Act* or any person <sup>R.S.O. 1970, c. 452</sup> in his employ while making a survey;
- (i) apply to trees on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under *The Pits and Quarries Control Act, 1971*; <sup>1971, c. 96</sup>
- (j) apply to trees destroyed in order to lawfully establish and operate or enlarge any pit or quarry on land that has not been designated under section 2 of *The Pits and Quarries Control Act, 1971*; or
- (k) apply to trees that are cut in accordance with good forestry practice.

(2) The expression "own use" in clause *a* of subsection 1 shall be deemed not to include any sale, exchange or other disposition of the trees that are cut. <sup>"own use" does not include sale, etc.</sup>

5. Section 6 of the said Act is repealed and the following substituted therefor: <sup>s. 6, re-enacted</sup>

6.—(1) Every person who, Offences

- (a) by himself or through any other person, contravenes any provision of a by-law passed under subsection 1 of section 4, or any predecessor thereof;
- (b) obstructs, hinders or interferes with an officer appointed under a by-law passed under subsection 1 of section 4, or any predecessor thereof, or any person acting under his instructions, in the discharge of his duties; or
- (c) fails or neglects, without just cause, to carry out an order made against him under subsection 2,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than three months, or to both.

Replanting

(2) Where a person is convicted of an offence under clause *a* of subsection 1, the judge shall consider all evidence given in respect of the necessity of replanting the area on which trees have been destroyed and may order the owner of the said area to replant or have replanted thereon such trees in such manner and within such period of time as the judge considers just and to adequately maintain the replanted trees in such manner as the judge considers proper.

ss. 7a, 7b,  
enacted

6. The said Act is amended by adding thereto the following sections:

Evidence in  
prosecutions

7a. In any prosecution under this Act,

R.S.O. 1970,  
cc. 409, 234

(a) a copy of an instrument certified under section 17 of *The Registry Act* or a certificate of search issued under section 127 of *The Land Titles Act* is admissible in evidence as *prima facie* proof of the matters therein contained; and

(b) a certificate of the Minister or Deputy Minister of Natural Resources in respect of the right, title and interest of the Crown in any trees on any land is admissible in evidence as *prima facie* proof of the matters therein contained.

Application  
for minor  
exception

7b.—(1) Upon the application of the owner of any trees affected by a by-law passed under subsection 1 of section 4, or any predecessor thereof, or any person authorized in writing by the owner, the council of the municipality that passed the by-law may, by by-law or resolution, authorize such minor exception from the by-law in respect of such trees as in its opinion is desirable for the appropriate development or use of the land on which such trees are situate, if in its opinion the general intent and purpose of the by-law is maintained.

Notice of  
application

(2) Where the council of a municipality receives an application under subsection 1, the clerk of the municipality shall give notice of the application to the owners of each parcel of land that abuts the land of the owner of the trees in respect of which the application is made and to such other owners as the council considers proper.

Service of  
notice

(3) A notice under subsection 2 shall be deemed to be sufficiently given if served upon an owner,

SECTION 6. Clause *a* of the new section 7*a* provides that in any prosecution a copy of an instrument certified under *The Registry Act* or a certificate of search under *The Land Titles Act* is admissible in evidence as *prima facie* proof of its content.

Clause *b* of that section provides that the production of a certificate of the Minister of Natural Resources or his Deputy Minister in respect of the right, title and interest of the Crown in any trees is admissible in evidence as *prima facie* proof of its content.

Section 7*b* empowers the council of a municipality to authorize, by by-law or resolution, a minor exception to a by-law passed under subsection 1 of section 4 of the Act and sets out the procedures to be followed when the council receives an application for a minor exception to the by-law.



- (a) personally;
- (b) by leaving it at his or her place of business or residence;
- (c) by registered mail addressed to his or her place of business or residence, if known, or to his or her place of business or residence as set forth in the last revised assessment roll of the municipality in which the land is situate; or
- (d) if the place of business and residence of the owner are not known, by leaving it with any person being at least sixteen years of age on the land of the owner or by posting it in two conspicuous places on such land.

(4) A notice under subsection 2 shall contain,

Content of  
notice

- (a) the name and address of the owner who has made the application for a minor exception or on whose behalf the application has been made;
- (b) a description of the land of the owner in respect of which the application has been made;
- (c) a description of the nature and extent of the trees on such land;
- (d) a description of the purpose, nature and extent of the minor exception for which application has been made; and
- (e) the hour, day and place of the meeting at which the council will consider passing a by-law or resolution under subsection 1.

(5) The clerk of the municipality shall give notice in such manner as he considers proper to the owner who has made the application or on whose behalf the application has been made of the hour, day and place of the meeting at which the council will consider passing a by-law or resolution under subsection 1.

Notice to  
applicant

(6) No meeting of the council shall be held to consider passing a by-law or resolution under subsection 1 unless,

Conditions  
precedent

- (a) twenty-one days have elapsed after required notices have been given in accordance with this section; and

(b) the giving of such notices is proved by affidavit or declaration.

Entitlement  
to be  
heard

(7) The council shall hear in person, or by his counsel or agent, the applicant and any person who claims that his land will be prejudicially affected by the by-law or resolution.

Approval of  
Minister  
not required

(8) No by-law or resolution passed under subsection 1 requires the approval of the Minister.

s. 11 (3),  
re-enacted

7. Subsection 3 of section 11 of the said Act is repealed and the following substituted therefor:

Cutting

(3) Every such agreement shall prescribe the conditions under which the cutting of timber upon such portions may be carried out and such conditions are subject to the approval of the Minister.

s. 12,  
re-enacted

8. Section 12 of the said Act is repealed and the following substituted therefor:

Approval of  
by-law by  
Minister

12. No by-law shall be finally passed under section 7, 8, 9, 10 or 11 until approved in writing by the Minister.

Commence-  
ment

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. The short title of this Act is *The Trees Amendment Act, 1979*.



SECTION 7. Subsection 3 of section 11 of the Act now reads as follows :

- (3) *Every such agreement shall prescribe the conditions under which the cutting of timber upon such portions may be carried out and such conditions are subject to the approval of the Minister of Lands and Forests.*

Subsection 3 is re-enacted to change an internal reference to the Minister of Lands and Forests to a reference to the Minister. "Minister" is defined in section 1 of the Act, as amended by section 1 of the Bill, as meaning the Minister of Natural Resources.

SECTION 8. Section 12 of the Act now reads as follows :

- 12. No by-law shall be finally passed under section 7, 8, 9, 10 or 11 until approved in writing by the Minister of Lands and Forests.*

Section 12 is re-enacted to change an internal reference to the Minister of Lands and Forests to a reference to the Minister.







---

An Act to amend The Trees Act

---

*1st Reading*

March 9th, 1979

*2nd Reading*

March 27th, 1979

*3rd Reading*

---

THE HON. J. A. C. AULD  
Minister of Natural Resources and  
Minister of Energy

---

*(Reprinted as amended by the  
Committee of the Whole House)*

CHARON  
XB  
-B56

3  
II **BILL 8**

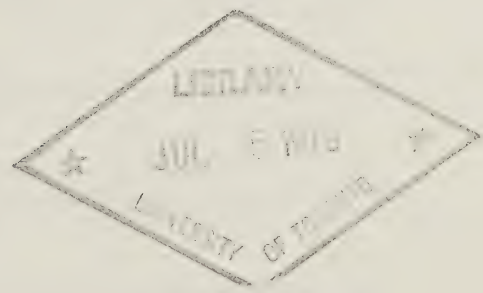
Government  
Publications

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

*Legislative Assembly*

**An Act to amend The Trees Act**

THE HON. J. A. C. AULD  
Minister of Natural Resources and Minister of Energy





## An Act to amend The Trees Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Trees Act*, being chapter 468 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses:
  - (aa) "dbh" means the diameter of the stem of a tree measured at a point that is four and one-half feet above ground;
  - . . . . .
  - (c) "Minister" means the Minister of Natural Resources;
  - (d) "woodlot" means an area having not less than,
    - (i) 400 trees per acre of any size,
    - (ii) 300 trees per acre measuring more than two inches dbh,
    - (iii) 200 trees per acre measuring more than five inches dbh, or
    - (iv) 100 trees per acre measuring more than eight inches dbh.
2. Section 3 of the said Act is amended by striking out "not more than \$25" in the seventh line and inserting in lieu thereof "not more than \$1,000".
3. Section 4 of the said Act is repealed and the following substituted therefor:
  - 4.—(1) Subject to the written approval of the Minister, the council of any county or of any municipality separated from the county for municipal purposes may pass by-laws,

s. 1,  
amended

s. 3,  
amended

s. 4,  
re-enacted

By-law  
restricting  
cutting of  
trees

- (a) restricting and regulating the destruction of trees by cutting, burning or other means; and
- (b) providing for the appointment of officers to enforce the provisions of any by-law passed under this section.

Entry  
on land

(2) An officer appointed under a by-law passed under subsection 1, or any predecessor thereof, and any person acting under his instructions may at all reasonable times enter upon the land of any person for the purpose of,

- (a) enforcing such by-law;
- (b) determining compliance with an order made under subsection 2 of section 6; or
- (c) examining trees that might be affected by a minor exception authorized under subsection 1 of section 7b.

Territorial  
limitation  
of by-law

(3) A by-law passed under subsection 1, or any predecessor thereof, may be limited territorially.

Approval  
of by-law

(4) The approval referred to in subsection 1 may be given before or after the by-law is passed.

Validity  
of past  
approvals  
of by-law

(5) Every approval heretofore given under any predecessor of subsection 1 shall be deemed to be valid whether given before or after the by-law was passed.

s. 5,  
re-enacted

**4.** Section 5 of the said Act is repealed and the following substituted therefor:

Exceptions

5.—(1) A by-law passed under subsection 1 of section 4, or any predecessor thereof, does not,

- (a) interfere with the right of a person who has been the registered owner of land for at least two years to cut trees thereon for his own use;
- (b) interfere with any rights or powers conferred upon a municipality by *The Municipal Act*;
- (c) interfere with any rights or powers of Ontario Hydro or of any agency, board or commission that is performing its functions for or on behalf of the Crown;
- (d) apply to trees growing upon any highway or upon any opened road allowance;

R.S.O. 1970,  
c. 284

- (e) apply to trees growing in a woodlot that is two acres or less in area, unless the by-law provides expressly that it applies to trees in such a woodlot;
- (f) apply to trees destroyed in order to erect any building, structure or thing in respect of which a building permit is issued;
- (g) apply to trees planted for the production of Christmas trees;
- (h) apply to trees cut by an Ontario land surveyor registered under *The Surveyors Act* or any person in his employ while making a survey; R.S.O. 1970, c. 452
- (i) apply to trees on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under *The Pits and Quarries Control Act, 1971*; 1971, c. 96
- (j) apply to trees destroyed in order to lawfully establish and operate or enlarge any pit or quarry on land that has not been designated under section 2 of *The Pits and Quarries Control Act, 1971*; or
- (k) apply to trees that are cut in accordance with good forestry practice.

(2) The expression "own use" in clause *a* of subsection 1 shall be deemed not to include any sale, exchange or other disposition of the trees that are cut. "own use" does not include sale, etc.

5. Section 6 of the said Act is repealed and the following substituted therefor: s. 6, re-enacted

6.—(1) Every person who,

Offences

- (a) by himself or through any other person, contravenes any provision of a by-law passed under subsection 1 of section 4, or any predecessor thereof;
- (b) obstructs, hinders or interferes with an officer appointed under a by-law passed under subsection 1 of section 4, or any predecessor thereof, or any person acting under his instructions, in the discharge of his duties; or
- (c) fails or neglects, without just cause, to carry out an order made against him under subsection 2,



is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than three months, or to both.

Replanting

(2) Where a person is convicted of an offence under clause *a* of subsection 1, the judge shall consider all evidence given in respect of the necessity of replanting the area on which trees have been destroyed and may order the owner of the said area to replant or have replanted thereon such trees in such manner and within such period of time as the judge considers just and to adequately maintain the replanted trees in such manner as the judge considers proper.

ss. 7a, 7b,  
enacted

**6.** The said Act is amended by adding thereto the following sections:

Evidence in  
prosecutions

*7a.* In any prosecution under this Act,

R.S.O. 1970,  
cc. 409, 234

(a) a copy of an instrument certified under section 17 of *The Registry Act* or a certificate of search issued under section 127 of *The Land Titles Act* is admissible in evidence as *prima facie* proof of the matters therein contained; and

(b) a certificate of the Minister or Deputy Minister of Natural Resources in respect of the right, title and interest of the Crown in any trees on any land is admissible in evidence as *prima facie* proof of the matters therein contained.

Application  
for minor  
exception

*7b.*—(1) Upon the application of the owner of any trees affected by a by-law passed under subsection 1 of section 4, or any predecessor thereof, or any person authorized in writing by the owner, the council of the municipality that passed the by-law may, by by-law or resolution, authorize such minor exception from the by-law in respect of such trees as in its opinion is desirable for the appropriate development or use of the land on which such trees are situate, if in its opinion the general intent and purpose of the by-law is maintained.

Notice of  
application

(2) Where the council of a municipality receives an application under subsection 1, the clerk of the municipality shall give notice of the application to the owners of each parcel of land that abuts the land of the owner of the trees in respect of which the application is made and to such other owners as the council considers proper.

Service of  
notice

(3) A notice under subsection 2 shall be deemed to be sufficiently given if served upon an owner,

- (a) personally;
- (b) by leaving it at his or her place of business or residence;
- (c) by registered mail addressed to his or her place of business or residence, if known, or to his or her place of business or residence as set forth in the last revised assessment roll of the municipality in which the land is situate; or
- (d) if the place of business and residence of the owner are not known, by leaving it with any person being at least sixteen years of age on the land of the owner or by posting it in two conspicuous places on such land.

(4) A notice under subsection 2 shall contain,

Content of  
notice

- (a) the name and address of the owner who has made the application for a minor exception or on whose behalf the application has been made;
- (b) a description of the land of the owner in respect of which the application has been made;
- (c) a description of the nature and extent of the trees on such land;
- (d) a description of the purpose, nature and extent of the minor exception for which application has been made; and
- (e) the hour, day and place of the meeting at which the council will consider passing a by-law or resolution under subsection 1.

(5) The clerk of the municipality shall give notice in such manner as he considers proper to the owner who has made the application or on whose behalf the application has been made of the hour, day and place of the meeting at which the council will consider passing a by-law or resolution under subsection 1.

Notice to  
applicant

(6) No meeting of the council shall be held to consider passing a by-law or resolution under subsection 1 unless,

Conditions  
precedent

- (a) twenty-one days have elapsed after required notices have been given in accordance with this section; and

(b) the giving of such notices is proved by affidavit or declaration.

Entitlement  
to be  
heard

(7) The council shall hear in person, or by his counsel or agent, the applicant and any person who claims that his land will be prejudicially affected by the by-law or resolution.

Approval of  
Minister  
not required

(8) No by-law or resolution passed under subsection 1 requires the approval of the Minister.

s. 11 (3),  
re-enacted

**7.** Subsection 3 of section 11 of the said Act is repealed and the following substituted therefor:

Cutting

(3) Every such agreement shall prescribe the conditions under which the cutting of timber upon such portions may be carried out and such conditions are subject to the approval of the Minister.

s. 12,  
re-enacted

**8.** Section 12 of the said Act is repealed and the following substituted therefor:

Approval of  
by-law by  
Minister

12. No by-law shall be finally passed under section 7, 8, 9, 10 or 11 until approved in writing by the Minister.

Commence-  
ment

**9.** This Act comes into force on the day it receives Royal Assent.

Short title

**10.** The short title of this Act is *The Trees Amendment Act, 1979*.







---

---

## BILL 8

An Act to amend The Trees Act

---

*1st Reading*

March 9th, 1979

*2nd Reading*

March 27th, 1979

*3rd Reading*

June 18th, 1979

---

THE HON. J. A. C. AULD  
Minister of Natural Resources and  
Minister of Energy

---

XB  
- B56

3  
F BILL 9

Government  
Publications  
Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979 *Legislative Assembly*

An Act to amend The Liquor Licence Act, 1975

MR. ZIEMBA





#### EXPLANATORY NOTE

The purpose of the Bill is to provide for a licence issuance suspension period during which the Liquor Licence Board will cease to issue new liquor licences in Ontario. During the suspension period the Board will study the issuance of liquor licences in Ontario and make recommendations concerning the extent to which the issuance of liquor licences is consistent with goals of public health and welfare.

BILL 9

1979

**An Act to amend  
The Liquor Licence Act, 1975**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Liquor Licence Act, 1975*, being chapter 40, is amended by adding thereto the following sections: ss. 7a, 7b,  
enacted

7a.—(1) Notwithstanding any provision of this Act, there shall be a licence issuance suspension period commencing on the 1st day of May, 1979 and extending to and including the 31st day of December, 1983 and, subject to subsections 2 and 3, the Board shall not issue any licence under section 5 or 6 during that period. Licence  
issuance  
suspension  
period

(2) The Board may issue a licence during the licence issuance suspension period where the application for the licence was received by the Board before the 1st day of May, 1979. Exception

(3) The Board may renew or approve the transfer of any licence that is subsisting on the 1st day of May, 1979 during the licence issuance suspension period in accordance with the provisions of this Act. Exception

7b. The Board shall conduct an inquiry into the issuance of licences in Ontario and shall report to the Minister on or before the 1st day of May, 1982, setting forth in the report, Inquiry and  
report

- (a) a statement of the number of licences in existence and the names of the owners thereof as of the 1st day of May, 1980;
- (b) a statement of the number of licences issued by the Board between the 2nd day of May, 1976 and the 1st day of May, 1980;

- (c) an estimate of the number of licences that would have been issued between the 1st day of May, 1979 and the 1st day of May, 1983, if the licence issuance suspension period had not been in effect;
- (d) an analysis of the nature and extent of alcoholism in Ontario;
- (e) an analysis of the revenues and profits of liquor manufacturers operating in Ontario including an estimate of the portion of such revenues and profits that are attributable to sales to licensed establishments;
- (f) a statement setting out the amounts of money being spent by each liquor manufacturer on rehabilitation programs for persons suffering from alcoholism in Ontario;
- (g) recommendations concerning,
  - (i) having regard to public health and welfare, whether the number of licences issued in Ontario is or is likely to be excessive,
  - (ii) the maximum number of licences that should be issued and subsisting at any time in Ontario, and
  - (iii) the manner of restricting the issuance of licences, if necessary.

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** The short title of this Act is *The Liquor Licence Amendment Act, 1979*.







An Act to amend  
The Liquor Licence Act, 1975

*1st Reading*

March 9th, 1979

*2nd Reading*

*3rd Reading*

MR. ZIEMBA

*(Private Member's Bill)*

42 40  
XB  
- 056

---

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

---

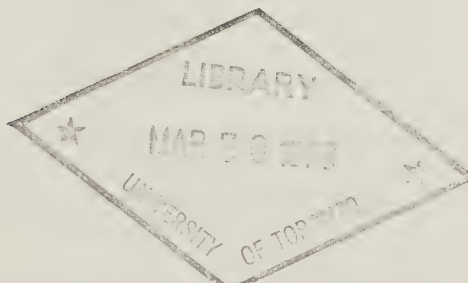
2  
Legislative Assembly

**An Act to relieve Persons from Liability  
in respect of voluntary Emergency  
Medical and First Aid Services**

---

MR. HAGGERTY

---





#### EXPLANATORY NOTE

The purpose of this Bill is to relieve persons from liability in respect of voluntary emergency first aid assistance or medical services rendered at or near the scene of an accident or other sudden emergency.

BILL 10

1979

**An Act to relieve Persons from Liability  
in respect of voluntary Emergency  
Medical and First Aid Services**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** In this Act,

Interpre-  
tation

- (a) "physician" means a medical practitioner licensed under Part III of *The Health Disciplines Act, 1974*; 1974, c. 47
- (b) "registered nurse" means a person who is the holder of a certificate as a registered nurse issued under Part IV of *The Health Disciplines Act, 1974*.

**2.** Where, in respect of a person who is ill, injured or unconscious as the result of an accident or other emergency,

Relief  
from  
liability  
for  
damages

- (a) a physician or registered nurse voluntarily and without expectation of compensation or reward renders emergency medical services or first aid assistance and the services or assistance are not rendered at a hospital or other place having adequate medical facilities and equipment; or
- (b) a person other than a person mentioned in clause a voluntarily renders emergency first aid assistance and the assistance is rendered at the immediate scene of the accident or emergency,

the physician, registered nurse or other person shall not be liable for damages for injuries to or the death of such person alleged to have been caused by an act or omission on his or her part in rendering the medical services or first aid assistance, unless it is established that the injuries or death were caused by the gross negligence of the physician, registered nurse or other person.

Act does  
not apply  
to normal  
medical  
services

**3.** Nothing in section 2 shall be construed to relieve a physician from liability for damages for injuries to or the death of any person caused by an act or omission on the part of the physician in respect of medical services rendered by him in the normal and ordinary course of his practice and not under the circumstances set forth in section 2.

Commence-  
ment

**4.** This Act comes into force on the day it receives Royal Assent.

Short title

**5.** The short title of this Act is *The Good Samaritan Act, 1979*.







---

---

## BILL 10

An Act to relieve Persons from Liability in  
respect of voluntary Emergency Medical  
and First Aid Services

---

*1st Reading*

March 12th, 1979

*2nd Reading*

*3rd Reading*

---

MR. HAGGERTY

---

*(Private Member's Bill)*

---

3  
17 BILL 11

Private Member's Bill

ADON  
XB  
-856

---

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

---

*Legislative Assembly*

An Act to amend The Family Benefits Act

---

MR. PETERSON

---



---

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTE

The purpose of the Bill is to provide equal status under *The Family Benefits Act* to men and women who are persons in need and who are parents of dependent children.

BILL 11

1979

## An Act to amend The Family Benefits Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *e* of section 1 of *The Family Benefits Act*, being chapter 157 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1971, chapter 92, section 1, is amended by striking out “his mother, dependent father” in the second line and inserting in lieu thereof “a parent”. s. 1 (e),  
amended
- (2) Clause *f* of the said section 1 is repealed. s. 1 (f),  
repealed
- (3) Clause *j* of the said section 1 is repealed and the following substituted therefor: s. 1 (j),  
re-enacted
  - (j) “parent” means the father or mother of a child, and includes a person who has demonstrated a settled intention to treat a child as a child of his or her family.
- (4) The said section 1 is amended by adding thereto the following clause: s. 1,  
amended
  - (n) “spouse” includes, either of a man or a woman not being married to each other who have cohabited,
    - (i) continuously for a period of not less than five years, or
    - (ii) in a relationship of some permanence where there is a child born of whom they are the natural parents,

and have so cohabited within the preceding year.
- 2.—(1) Clause *b* of subsection 1 of section 7 of the said Act is repealed and the following substituted therefor: s. 7 (1) (b),  
re-enacted

(b) who has attained the age of sixty years but has not attained the age of sixty-five years and is a widowed spouse, an unmarried person, or a person,

R.S.O. 1970,  
cc. 270, 422

R.S.O. 1970,  
cc. 206, 62

- (i) whose spouse is a patient in an institution under *The Mental Hospitals Act*, a sanatorium under *The Sanatoria for Consumptives Act*, a hospital for the chronically ill or a nursing home, or a resident in a home for the aged under *The Homes for the Aged and Rest Homes Act* or *The Charitable Institutions Act*, and has been a patient or resident therein, as the case may be, for a continuous period of six months or more,
- (ii) whose spouse has deserted the person for three months or more and the whereabouts of the spouse is unknown,
- (iii) whose spouse is imprisoned in a penal institution and at the date of application has a term of imprisonment remaining to be served of six months or more,
- (iv) who is divorced and has not remarried, or
- (v) who is living separate and apart from the person's spouse and has been living separate and apart from the spouse for a continuous period of five years or more; or

s. 7 (1) (d),  
re-enacted

(2) Clause *d* of subsection 1 of the said section 7 is repealed and the following substituted therefor:

- (d) who is a parent with a dependent child and,
  - (i) who is widowed, or
  - (ii) whose spouse has deserted the family for three months or more, or
  - (iii) whose spouse has deserted the family and was a dependent spouse at the time of the desertion, or
  - (iv) whose spouse is a patient in a sanatorium, hospital or similar institution, or

- (v) whose spouse is imprisoned in a penal institution and at the date of application has a term of imprisonment remaining to be served of six months or more, or
- (vi) who is divorced from the parent of the dependent child and has not remarried, or
- (vii) whose child was born out of wedlock, where the parent is sixteen years or more of age and her dependent child is three months or more of age; or

- (3) Clause *e* of subsection 1 of the said section 7, as re-enacted by the Statutes of Ontario, 1971, chapter 92, section 4, is <sup>s. 7 (1) (*e*),  
repealed</sup> repealed.

- 3.** This Act comes into force on the day it receives Royal Assent. <sup>Commence-</sup>  
ment
- 4.** The short title of this Act is *The Family Benefits Amendment Act, 1979*. <sup>Short title</sup>





## BILL 11

---

An Act to amend  
The Family Benefits Act

---

*1st Reading*

March 13th, 1979

*2nd Reading*

*3rd Reading*

---

MR. PETERSON

---

*(Private Member's Bill)*

---

3  
7 BILL 12

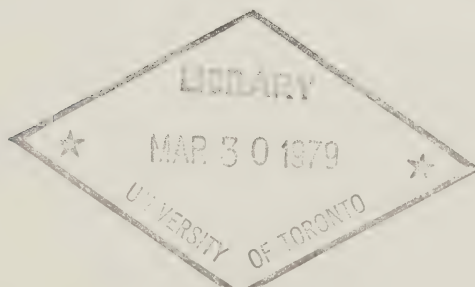
Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

*Legislative*

An Act to amend The Landlord and Tenant Act

MR. WARNER



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTE

The purpose of the Bill is to ensure that a landlord does not prevent tenants from using a common room in rented premises for candidates' meetings or for meetings with elected representatives.

BILL 12

1979

**An Act to amend  
The Landlord and Tenant Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 94 of *The Landlord and Tenant Act*, being chapter 236 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:
 

s. 94,  
amended

(2) Where a rented premises contains a common room that is a facility for the use of tenants, no landlord or servant or agent of a landlord shall prohibit a tenant or group of tenants from using the room for a meeting between tenants of the rented premises and a holder of or a candidate for any elected office referred to in subsection 1.

Use of  
common  
room
2. This Act comes into force on the day it receives Royal Assent.
 

Commence-  
ment
3. The short title of this Act is *The Landlord and Tenant Amendment Act, 1979*.
 

Short title

An Act to amend  
The Landlord and Tenant Act

---

*1st Reading*

March 13th, 1979

*2nd Reading*

*3rd Reading*

---

MR. WARNER

---

*(Private Member's Bill)*

---

2-22  
4 B  
- B.56

3  
17  
11

Government  
Publications

**BILL 13**

**Government Bill**

3RD SESSION, 31ST LEGISLATURE, <sup>1</sup>ONTARIO  
28 ELIZABETH II, 1979 <sup>27</sup>Legislative Assembly

**An Act to amend The Ministry of Transportation  
and Communications Act, 1971**

THE HON. J. W. SNOW  
Minister of Transportation and Communications



#### EXPLANATORY NOTE

The section being re-enacted authorizes the Minister, with the approval of the Lieutenant Governor in Council, to delegate powers relating to the operation of the Ministry.

The section as recast expands and clarifies the authority to delegate. In addition, the effect of section 5 of *The Executive Council Act* is limited. The relevant section of *The Executive Council Act* reads as follows:

5. *No deed or contract in respect of any matter under the control or direction of a minister is binding on Her Majesty or shall be deemed to be the act of such minister unless it is signed by him or is approved by the Lieutenant Governor in Council.*

*The Ministry of Treasury and Economics Act, 1978* contains provisions similar to the recast section 4 contained in section 1 of this Bill.

BILL 13

1979

## An Act to amend The Ministry of Transportation and Communications Act, 1971

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of *The Ministry of Transportation and Communications Act, 1971*, being chapter 13, is repealed and the following substituted therefor: s. 4,  
re-enacted

4.—(1) Any power conferred or duty imposed on the Minister by this or any other Act may be delegated by him in writing, subject to such limitations, conditions and requirements as the Minister may set out in the delegation, to the Deputy Minister of Transportation and Communications or to any officer of the Ministry who may act for him in his place and stead, and when the Deputy Minister of Transportation and Communications or such other officer acts in the place and stead of the Minister, it shall be presumed conclusively that he acted in accordance with such delegation. Delegation  
of powers  
and duties  
of Minister

(2) Notwithstanding *The Executive Council Act*, a deed or a contract made by a person empowered to do so under subsection 1 has the same effect as if signed by the Minister. Effect of  
R.S.O. 1970,  
c. 153

2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is *The Ministry of Transportation and Communications Amendment Act, 1979*. Short title

---

## BILL 13

---

An Act to amend  
The Ministry of Transportation  
and Communications Act, 1971

---

*1st Reading*

March 15th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. J. W. SNOW  
Minister of Transportation  
and Communications

---

*(Government Bill)*

---

17 **BILL 13**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend The Ministry of Transportation  
and Communications Act, 1971**

THE HON. J. W. SNOW  
Minister of Transportation and Communications



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO





BILL 13

1979

## An Act to amend The Ministry of Transportation and Communications Act, 1971

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of *The Ministry of Transportation and Communications Act, 1971*, being chapter 13, is repealed and the following <sup>s. 4, re-enacted</sup> substituted therefor:

4.—(1) Any power conferred or duty imposed on the Minister by this or any other Act may be delegated by him <sup>Delegation of powers and duties of Minister</sup> in writing, subject to such limitations, conditions and requirements as the Minister may set out in the delegation, to the Deputy Minister of Transportation and Communications or to any officer of the Ministry who may act for him in his place and stead, and when the Deputy Minister of Transportation and Communications or such other officer acts in the place and stead of the Minister, it shall be presumed conclusively that he acted in accordance with such delegation.

(2) Notwithstanding *The Executive Council Act*, a deed or a contract made by a person empowered to do so under subsection 1 has the same effect as if signed by the Minister. <sup>Effect of R.S.O. 1970, c. 153</sup>

2. This Act comes into force on the day it receives Royal Assent. <sup>Commencement</sup>
3. The short title of this Act is *The Ministry of Transportation and Communications Amendment Act, 1979*. <sup>Short title</sup>

An Act to amend  
The Ministry of Transportation  
and Communications Act, 1971

---

*1st Reading*

March 15th, 1979

*2nd Reading*

April 10th, 1979

*3rd Reading*

April 10th, 1979

---

THE HON. J. W. SNOW  
Minister of Transportation  
and Communications

---

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

## An Act to amend The Statute Labour Act

THE HON. J. W. SNOW  
Minister of Transportation and Communications



#### EXPLANATORY NOTE

Subsection 1 of section 30 at present reads as follows:

- (1) *The commissioners, at the first meeting after their election, shall elect one of their number as chairman to preside at meetings and shall appoint some competent person who may be one of themselves other than the chairman, as secretary-treasurer and the secretary-treasurer is exempt from the performance of statute labour and the commissioners may each year pay to the secretary-treasurer out of the commutation fund such amount, not exceeding \$50, as may be fixed by resolution of the commissioners.*

The words underlined are being struck out.

BILL 14

1979

**An Act to amend The Statute Labour Act**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 30 of *The Statute Labour Act*, being <sup>s. 30 (1),</sup> chapter 445 of the Revised Statutes of Ontario, 1970, is <sup>amended</sup> amended by striking out "not exceeding \$50" in the eighth line.
2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-</sup>  
<sup>ment</sup>
3. The short title of this Act is *The Statute Labour Amendment Act*, <sup>Short title</sup>  
1979.

---

## BILL 14

---

An Act to amend  
The Statute Labour Act

---

*1st Reading*

March 15th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. J. W. SNOW  
Minister of Transportation  
and Communications

---

*(Government Bill)*

---

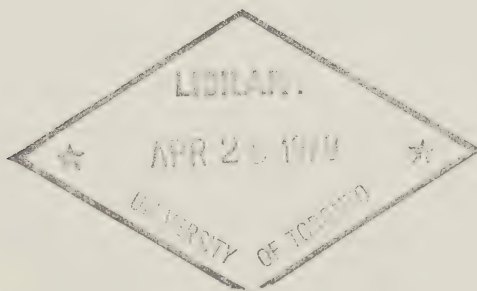
2  
F BILL 14  
10

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

Legislative Assembly

An Act to amend The Statute Labour Act

THE HON. J. W. SNOW  
Minister of Transportation and Communications







BILL 14

1979

## An Act to amend The Statute Labour Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 30 of *The Statute Labour Act*, being <sup>s. 30 (1),</sup> chapter 445 of the Revised Statutes of Ontario, 1970, is <sup>amended</sup> amended by striking out “not exceeding \$50” in the eighth line.
2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-</sup>  
<sup>ment</sup>
3. The short title of this Act is *The Statute Labour Amendment Act*, <sup>Short title</sup>  
1979.

An Act to amend  
The Statute Labour Act

*1st Reading*

March 15th, 1979

*2nd Reading*

April 10th, 1979

*3rd Reading*

April 10th, 1979

THE HON. J. W. SNOW  
Minister of Transportation  
and Communications

**BILL 15**

**Government Bill**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend The Local Roads Boards Act**

THE HON. J. W. SNOW  
Minister of Transportation and Communications



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTES

SECTION 1.—Subsection 1. The definition of Minister is up-dated.

Subsection 2. In 1972, *The Land Titles Act* and *The Registry Act* were amended and the registry offices and land titles offices were combined into one land registry office. The amendment reflects that change.

SECTION 2. This amendment is complementary to subsection 2 of section 3.

SECTION 3.—Subsection 1. Subsection 1 of section 16 of the Act sets out specified matters that may be changed after a proposal to make the change is voted upon at an annual meeting. The amendment adds a further matter that may be changed.

## An Act to amend The Local Roads Boards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *d* of section 1 of *The Local Roads Boards Act*, <sup>s. 1 (d), re-enacted</sup> being chapter 256 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

(d) “Minister” means the Minister of Transportation and Communications.

- (2) Clause *e* of the said section 1 is amended by striking out <sup>s. 1 (e), amended</sup> “registry or land titles office” in the fourth line and inserting in lieu thereof “land registry office”.

2. Subsection 2 of section 14 of the said Act is repealed and <sup>s. 14 (2), re-enacted</sup> the following substituted therefor:

(2) If in any year both the board and the secretary-treasurer fail to call an annual meeting or, having called an annual meeting, fail to put to a vote a proposal as required by the Minister under subsection 1*a* of section 16, any ten owners of land in the local roads area may call a meeting as provided in section 7 and may appoint one of their number to act as chairman at the meeting, and such owner shall act as chairman notwithstanding that the chairman of the board attends the meeting. <sup>on call of ten owners</sup>

- 3.—(1) Subsection 1 of section 16 of the said Act is amended by <sup>s. 16 (1), amended</sup> striking out “or” at the end of clause *b*, by adding “or” at the end of clause *c* and by adding thereto the following clause:

(d) the minimum annual tax imposed under section 22 be altered,

- s. 16,  
amended (2) The said section 16 is amended by adding thereto the following subsection:
- Idem (1a) Where it is proposed by the Minister that the boundaries of a local roads area be altered, the Minister may, by notice to the secretary-treasurer of the board affected, require the board to put the proposal to a vote at the next annual meeting.
- s. 16 (4),  
re-enacted (3) Subsection 4 of the said section 16 is repealed and the following substituted therefor:
- Notification  
to Minister (4) Where a vote has been taken under subsection 1 or 1a, the secretary-treasurer shall forward to the Minister a copy of the proposal together with a statement of the results of the vote showing the vote of the owners for and against the proposal and, in the case of a proposal made under clause a of subsection 1 or under subsection 1a, the vote of the owners of land in the area that is proposed to be added to or to be removed from an existing area for and against the proposal.
- Order by  
Minister (5) Where the Minister receives a copy of a proposal together with a statement of results as set out in subsection 4, he, if he considers it in the public interest so to do, may by order in writing alter the boundaries of the local roads area or the roads included therein in accordance with the proposal or in such other manner as he considers appropriate.
- s. 17 (3),  
amended 4. Subsection 3 of section 17 of the said Act is amended by striking out "section 15" in the third line and inserting in lieu thereof "section 14".
- s. 19,  
amended 5. Section 19 of the said Act is amended by inserting after "14" in the third line "and 16 to 18".
- s. 20 (4),  
amended 6.—(1) Subsection 4 of section 20 of the said Act is amended by striking out paragraphs 3, 4 and 5 and inserting in lieu thereof the following:
3. For forested land, \$10 a hectare.
4. For cleared land, \$15 a hectare.
5. For all other land, \$5 a hectare.
- s. 20 (5) (a),  
re-enacted (2) Clause a of subsection 5 of the said section 20 is repealed and the following substituted therefor:
- (a) "hectare" includes a part of a hectare; and

Subsection 2. The new provision provides that the Minister may propose that the boundaries of a local road area be altered and that the proposal be put to a vote. Where the proposal is not put to a vote, local land owners may call a meeting and vote on the proposal.

Subsection 3. The change made is complementary to subsection 2 and incorporates internal reference to the new subsection 1*a* of section 16 of the Act along with appropriate word changes.

In addition, subsection 4 of section 16 of the Act has been broken up into two subsections to make the provision more readable without any change in substance.

SECTION 4. The amendment corrects an internal reference.

SECTION 5. Section 19 of the Act now reads as follows:

*19. All land as defined in The Provincial Land Tax Act in a local roads area is liable to assessment and taxation under this Act, subject to the exemptions from taxation enumerated in paragraphs 1 to 14 of subsection 1 of section 3 of The Provincial Land Tax Act.*

Three new exemptions are being added.

SECTION 6.—Subsection 1. Subsection 4 of section 20 of the Act sets out certain assessments for taxation purposes under the Act. The conversion is to metric units with paragraphs 3, 4 and 5 now being \$4 an acre, \$6 an acre and \$2 an acre, respectively.

Subsection 2. The definition of hectare is substituted for that of acre.



SECTION 7. Now, the minimum annual tax under the Act is \$10. The amendment allows the land owners to set a different minimum.

SECTION 8. The explanation for subsection 2 of section 1 of the Bill applies to this amendment.

SECTION 9. The Act now provides that the Minister may credit a board for unoccupied Crown land at the rate of \$3 per foot of frontage. This amount is being changed to \$10 per metre.

SECTION 10. The explanation for subsection 2 of section 1 of the Bill applies to this amendment.

7. Section 22 of the said Act is repealed and the following substituted therefor: s. 22,  
re-enacted

22.—(1) The minimum annual tax imposed under this Act in respect of the land of any owner is the minimum annual tax approved by a majority of owners present at an annual meeting, but where there is no such approval, the minimum annual tax is \$10. Minimum  
tax

(2) Where a minimum annual tax is approved under subsection 1, that minimum annual tax as approved remains in effect until a further variation is approved at a subsequent annual meeting. Idem

8. Subsection 2 of section 25 of the said Act is amended by striking out "land titles or registry office" in the fifth line and inserting in lieu thereof "land registry office". s. 25 (2),  
amended

9. Section 32 of the said Act is amended by striking out "\$3 for each foot" in the sixth line and inserting in lieu thereof "\$10 for each metre". s. 32,  
amended

- 10.—(1) Subsection 1 of section 35 of the said Act is amended by striking out "land titles or registry office" in the third line and inserting in lieu thereof "land registry office" and by striking out "land titles, registry" in the sixth and seventh lines and inserting in lieu thereof "land registry". s. 35 (1),  
amended

- (2) Subsection 5 of the said section 35 is amended by striking out "master of titles or registrar of deeds" in the first and second lines and inserting in lieu thereof "land registrar". s. 35 (5),  
amended

- (3) Subsection 6 of the said section 35 is amended by striking out "land titles or registry office" in the second line and inserting in lieu thereof "land registry office" and by striking out "the registrar or master of titles" in the fourth line and inserting in lieu thereof "the land registrar". s. 35 (6),  
amended

- 11.—(1) This Act, except sections 5 and 8, comes into force on the day it receives Royal Assent. Commence-  
ment

- (2) Sections 5 and 8 come into force on the 1st day of January, 1980. Idem

12. The short title of this Act is *The Local Roads Boards Amendment Act, 1979*. Short title

---

An Act to amend  
The Local Roads Boards Act

---

*1st Reading*

March 15th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. J. W. SNOW  
Minister of Transportation  
and Communications

---

*(Government Bill)*

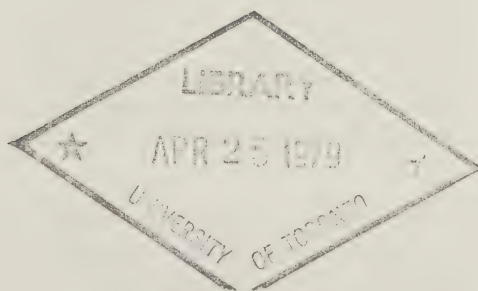
---

3  
F  
**BILL 15**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979 *Legislative*

**An Act to amend The Local Roads Boards Act**

THE HON. J. W. SNOW  
Minister of Transportation and Communications



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL 15

1979

## An Act to amend The Local Roads Boards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *d* of section 1 of *The Local Roads Boards Act*, <sup>s. 1 (d),  
re-enacted</sup> being chapter 256 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

(d) “Minister” means the Minister of Transportation and Communications.

- (2) Clause *e* of the said section 1 is amended by striking out <sup>s. 1 (e),  
amended</sup> “registry or land titles office” in the fourth line and inserting in lieu thereof “land registry office”.

2. Subsection 2 of section 14 of the said Act is repealed and <sup>s. 14 (2),  
re-enacted</sup> the following substituted therefor:

(2) If in any year both the board and the secretary-treasurer fail to call an annual meeting or, having called an annual meeting, fail to put to a vote a proposal as required by the Minister under subsection 1*a* of section 16, any ten owners of land in the local roads area may call a meeting as provided in section 7 and may appoint one of their number to act as chairman at the meeting, and such owner shall act as chairman notwithstanding that the chairman of the board attends the meeting. <sup>on call  
of ten  
owners</sup>

- 3.—(1) Subsection 1 of section 16 of the said Act is amended by <sup>s. 16 (1),  
amended</sup> striking out “or” at the end of clause *b*, by adding “or” at the end of clause *c* and by adding thereto the following clause:

(d) the minimum annual tax imposed under section 22 be altered,

. . . . .

s. 16,  
amended

- (2) The said section 16 is amended by adding thereto the following subsection:

Idem

(1a) Where it is proposed by the Minister that the boundaries of a local roads area be altered, the Minister may, by notice to the secretary-treasurer of the board affected, require the board to put the proposal to a vote at the next annual meeting.

s. 16 (4),  
re-enacted

- (3) Subsection 4 of the said section 16 is repealed and the following substituted therefor:

Notification  
to Minister

(4) Where a vote has been taken under subsection 1 or 1a, the secretary-treasurer shall forward to the Minister a copy of the proposal together with a statement of the results of the vote showing the vote of the owners for and against the proposal and, in the case of a proposal made under clause *a* of subsection 1 or under subsection 1a, the vote of the owners of land in the area that is proposed to be added to or to be removed from an existing area for and against the proposal.

Order by  
Minister

(5) Where the Minister receives a copy of a proposal together with a statement of results as set out in subsection 4, he, if he considers it in the public interest so to do, may by order in writing alter the boundaries of the local roads area or the roads included therein in accordance with the proposal or in such other manner as he considers appropriate.

s. 17 (3),  
amended

4. Subsection 3 of section 17 of the said Act is amended by striking out "section 15" in the third line and inserting in lieu thereof "section 14".

s. 19,  
amended

5. Section 19 of the said Act is amended by inserting after "14" in the third line "and 16 to 18".

s. 20 (4),  
amended

- 6.—(1) Subsection 4 of section 20 of the said Act is amended by striking out paragraphs 3, 4 and 5 and inserting in lieu thereof the following:

3. For forested land, \$10 a hectare.

4. For cleared land, \$15 a hectare.

5. For all other land, \$5 a hectare.

s. 20 (5) (a),  
re-enacted

- (2) Clause *a* of subsection 5 of the said section 20 is repealed and the following substituted therefor:

(a) "hectare" includes a part of a hectare; and

7. Section 22 of the said Act is repealed and the following substituted therefor: <sup>s. 22, re-enacted</sup>

22.—(1) The minimum annual tax imposed under this Act in respect of the land of any owner is the minimum annual tax approved by a majority of owners present at an annual meeting, but where there is no such approval, the minimum annual tax is \$10. <sup>Minimum tax</sup>

(2) Where a minimum annual tax is approved under subsection 1, that minimum annual tax as approved remains in effect until a further variation is approved at a subsequent annual meeting. <sup>Idem</sup>

8. Subsection 2 of section 25 of the said Act is amended by striking out “land titles or registry office” in the fifth line and inserting in lieu thereof “land registry office”. <sup>s. 25 (2), amended</sup>

9. Section 32 of the said Act is amended by striking out “\$3 for each foot” in the sixth line and inserting in lieu thereof “\$10 for each metre”. <sup>s. 32, amended</sup>

- 10.—(1) Subsection 1 of section 35 of the said Act is amended by striking out “land titles or registry office” in the third line and inserting in lieu thereof “land registry office” and by striking out “land titles, registry” in the sixth and seventh lines and inserting in lieu thereof “land registry”. <sup>s. 35 (1), amended</sup>

(2) Subsection 5 of the said section 35 is amended by striking out “master of titles or registrar of deeds” in the first and second lines and inserting in lieu thereof “land registrar”. <sup>s. 35 (5), amended</sup>

(3) Subsection 6 of the said section 35 is amended by striking out “land titles or registry office” in the second line and inserting in lieu thereof “land registry office” and by striking out “the registrar or master of titles” in the fourth line and inserting in lieu thereof “the land registrar”. <sup>s. 35 (6), amended</sup>

- 11.—(1) This Act, except sections 5 and 8, comes into force on the day it receives Royal Assent. <sup>Commencement</sup>

(2) Sections 5 and 8 come into force on the 1st day of January, 1980. <sup>Idem</sup>

12. The short title of this Act is *The Local Roads Boards Amendment Act, 1979*. <sup>Short title</sup>







---

## BILL 15

---

An Act to amend  
The Local Roads Boards Act

---

*1st Reading*

March 15th, 1979

*2nd Reading*

April 10th, 1979

*3rd Reading*

April 10th, 1979

---

THE HON. J. W. SNOW  
Minister of Transportation  
and Communications

---

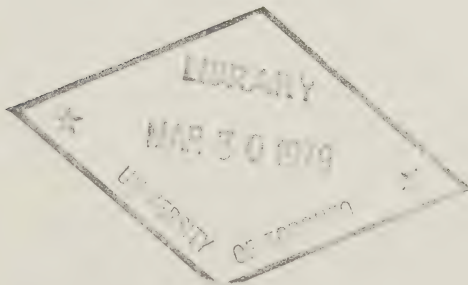
3  
B  
A-56  
**BILL 16**

**Government Bill**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979 *Legislative Assembly*

**An Act to amend The Airports Act**

THE HON. J. W. SNOW  
Minister of Transportation and Communications



#### EXPLANATORY NOTE

Subsection 1 of section 2 of the Act provides that the Crown may enter into agreements with respect to the establishment, operation, etc., of airports. It also provides that the Minister, with the approval of the Lieutenant Governor in Council, may provide funds to a municipality, corporation or individual for purposes of the agreement.

The requirement that the grant be approved by the Lieutenant Governor in Council is being removed.

BILL 16

1979

**An Act to amend The Airports Act**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 2 of *The Airports Act*, being chapter 17 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1977, chapter 33, section 2, is amended by striking out "with the approval of the Lieutenant Governor in Council" in the eighth line. s. 2 (1),  
amended
2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is *The Airports Amendment Act, 1979*. Short title

An Act to amend  
The Airports Act

*1st Reading*

March 15th, 1979

*2nd Reading*

*3rd Reading*

THE HON. J. W. SNOW  
Minister of Transportation  
and Communications

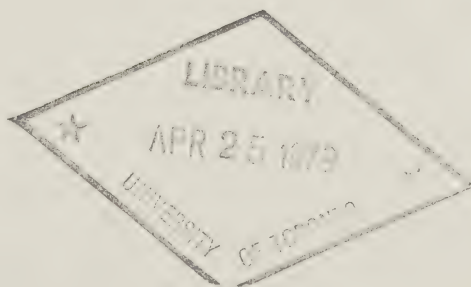
*(Government Bill)*

**BILL 16**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend The Airports Act**

THE HON. J. W. SNOW  
Minister of Transportation and Communications







BILL 16

1979

## An Act to amend The Airports Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 2 of *The Airports Act*, being chapter 17 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1977, chapter 33, section 2, is amended by striking out "with the approval of the Lieutenant Governor in Council" in the eighth line. s. 2 (1),  
amended
2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is *The Airports Amendment Act, 1979*. Short title

## BILL 16

---

An Act to amend  
The Airports Act

---

*1st Reading*

March 15th, 1979

*2nd Reading*

April 10th, 1979

*3rd Reading*

April 10th, 1979

---

THE HON. J. W. SNOW  
Minister of Transportation  
and Communications

---

**BILL 17**

**Government Bill**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

*Legislation*

**An Act to revise The Line Fences Act**

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



## EXPLANATORY NOTES

Bill 135, An Act to revise *The Line Fences Act*, was introduced in the Legislature and given first reading on June 22nd, 1978. Following its first reading that Bill was widely circulated and comments on it were sought from interested persons. Bill 201 was given first reading on December 8th, 1978. It replaced Bill 135 and incorporated a number of recommendations that were received; in addition, some sections were reworded in an attempt to make their provisions clearer and the sequence of others was rearranged to provide a more logical structure to the Bill.

With only minor revisions, this Bill incorporates the same provisions as were found in Bill 201; it revises and replaces the existing *Line Fences Act* that has remained substantially unaltered since its first appearance under that name in the Statutes of 1913. Among its principal features will be found the following:

1. Provision is made to govern the situation where the land of one owner is situate in a local municipality while that of the adjoining owner is situate in territory without municipal organization (s. 1 (3) and s. 17 (4) ).
2. While the Act generally will not extend to unorganized territory in Ontario, the Lieutenant Governor in Council is empowered to make regulations to provide for determining how the costs of line fences are to be apportioned in such territory and for the manner in which the costs will be recoverable (s. 26).
3. Municipalities are required to appoint a sufficient number of fence-viewers and to set out in the appointing by-law the *per diem* remuneration they are to be paid (s. 2).
4. It is made explicit that an owner of land may construct and maintain a fence to mark the boundary between his and adjoining lands (s. 3).
5. No distinction is made in the application of the Act between occupied and unoccupied lands.
6. When an owner wishes the fence-viewers to view and arbitrate, he notifies the municipal clerk and the clerk in turn notifies the adjoining owner and three fence-viewers, specifying the time and place of the meeting for the arbitration (s. 4).
7. It is made clear that in their award the fence-viewers may specify one of three alternatives, that is that each owner be responsible for a designated portion of the fence, (normally, one-half) or that

while one owner be responsible for the construction or repair of the whole of the fence the other owner contribute a specified portion of the costs incurred or that one owner be responsible for the whole of the fence (s. 7).

8. Where one owner does not obey the award the other owner may, on notice, himself do the work and cause the fence-viewers to reattend to certify the default and the value of the work done. The amount may be recovered by the certificate being deposited with the clerk who places the amount on the collector's roll to be collected in the same manner as taxes. Alternatively, the certificate may be filed with the clerk of the appropriate small claims court and the amount recovered in the same manner as the amount of a judgment in that court (ss. 11, 12).
9. An owner in the process of constructing a fence pursuant to an award or direction under the Act is empowered to enter on adjoining land to the extent necessary; it is made an offence to obstruct that owner from entering on the land (s. 11 (4, 5) ).
10. An owner dissatisfied with the fence-viewers award may appeal therefrom to a judge of the small claims court (s. 9).
11. Where one owner feels that the work done by an adjoining owner pursuant to an award is not in compliance with the award, he may cause the fence-viewers to reattend; the fence-viewers may require the appropriate action to be taken by the owner at fault and on his failure to do so the aggrieved owner may himself do the work and recover the cost (s. 13).
12. The Crown in right of Ontario, a Crown agency or a municipality that has land conveyed to it that was formerly a railway right-of-way, if it is not the owner of abutting land, is obligated to fence both sides of the former railway lands it has acquired (s. 19 (1) (c) ).
13. The Act does not apply to lands owned by a municipality or local board unless the municipality or board provides that the Act does apply; municipalities and boards may however enter into agreements with owners of adjoining land for the construction and maintenance of boundary fences (s. 22).  
  
(Note that "local board" in this context does not include a conservation authority.)
14. The Act is not binding on the Crown or a Crown agency except in the instance of former railway lands conveyed to the Crown or a Crown agency (ss. 19(1)(c), 23).
15. The Minister is authorized to make regulations prescribing forms for the purposes of the Act (s. 25).

BILL 17

1979

## An Act to revise The Line Fences Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-  
tation

- (a) “Minister” means the Minister of Intergovernmental Affairs;
- (b) “occupant” means the occupant of adjoining land that is subject or proposed to be made subject to proceedings instituted under section 4;
- (c) “prescribed” means prescribed by the regulations;
- (d) “regulations” means regulations made under this Act;
- (e) “value of the work” and “costs of the work” have the same meaning and include the value of the materials used and the value of the labour performed to complete the work. *New.*

(2) Where, within the meaning of section 4, there is a <sup>Idem</sup> dispute between owners or occupants of lands situate in different local municipalities,

- (a) “fence-viewers” means two fence-viewers of the local municipality in which is situate the land of the owner or occupant notified under section 4, and one fence-viewer of the local municipality in which is situate the land of the person instituting the proceedings under that section;
- (b) “in which the land is situate” or “in which the land lies” means in which is situate the land of the owner or occupant so notified under section 4. R.S.O. 1970, c. 248, s. 1 (2), *amended.*



Idem

(3) Where, within the meaning of section 4, there is a dispute between the owner or occupant of land situate in a local municipality and the owner or occupant of land situate in territory without municipal organization,

(a) "fence-viewers" means three fence-viewers appointed by the local municipality in which the land of the one owner or occupant is situate, and at least one of the fence-viewers shall be resident outside the municipality in the vicinity of the land of the other owner or occupant;

(b) "local municipality in which the land is situate" means the local municipality in which is situate the land of the one owner or occupant. *New.*

Appointment  
of fence-  
viewers

**2.** The council of every local municipality shall, by by-law, appoint such number of fence-viewers as are required to carry out the provisions of this Act and the by-law shall fix the *per diem* remuneration to be paid to the fence-viewers. *New.*

Owner of land  
may construct  
boundary  
fence

**3.** An owner of land may construct and maintain a fence to mark the boundary between his land and adjoining lands. *New.*

Owner may  
request fence-  
viewers to  
view and  
arbitrate

**4.—(1)** Where the owner of any land desires to have a fence constructed to mark the boundary between his land and the land of an adjoining owner, or where such a fence exists, to have it repaired or reconstructed and where he has not entered into a written agreement with the adjoining owner for sharing the costs of the construction, reconstruction, or repair, as the case may be, of such fence, he may notify the clerk of the local municipality in which the land is situate that he desires fence-viewers to view and arbitrate as to what portion of the fence each owner shall construct, reconstruct or repair and maintain and keep up.

Notice by  
clerk

(2) Where the clerk of a municipality is notified under subsection 1, he, or such other person as may be designated by the council for the purpose of giving notices under this section, shall notify in the prescribed form the owner mentioned in subsection 1 and the adjoining owner or the occupant of the land of the adjoining owner that he will on a day named, not less than one week from the service of the notice, cause three fence-viewers of the locality to arbitrate in the premises and he shall notify in the prescribed form the fence-viewers not less than one week before their services are required that they are required to meet to arbitrate in the premises.

(3) A notice under subsection 2 shall be signed by the <sup>Idem</sup> clerk or such other designated person, as the case may be, and shall specify the time, being not more than thirty days from the date of the receipt of the notice under subsection 1, and place of the meeting for the arbitration, and the notice shall be given to a person mentioned in subsection 2 by sending it to him by registered mail at the address where he resides or, in the case of a notice to an owner or occupant, may instead be given by leaving it with him at his place of residence or with some other person, over the age of eighteen years, residing thereat. R.S.O. 1970, c. 248, s. 4, *part, amended.*

5. Where an occupant who is not the owner of the land <sup>Duty and liability of occupants as to notifying owners</sup> is given a notice under this Act, he shall immediately inform the owner of the notice, and, if he neglects to do so, he is liable for all damage caused to the owner by such neglect. R.S.O. 1970, c. 248, s. 5, *amended.*

6. The fence-viewers shall examine the premises and, <sup>Duties and powers of fence-viewers</sup> if required by either adjoining owner, shall hear evidence and may examine the owners and their witnesses on oath. R.S.O. 1970, c. 248, s. 6, *amended.*

7.—(1) The fence-viewers shall make an award in the <sup>Award of fence-viewers</sup> prescribed form, signed by any two of them, respecting the matters in dispute and the award shall state that a fence shall be constructed and maintained and kept up to mark the boundary between the adjoining lands, or, where such a fence exists, that the fence shall be reconstructed or repaired, and shall be maintained and kept up, and the award shall specify,

(a) the location of the fence;

(b) that,

- (i) each adjoining owner shall construct, reconstruct or repair, as the case may be, and maintain and keep up a designated one-half of the fence or such other designated portion of the fence as the fence-viewers consider just, or
- (ii) that the adjoining owner designated shall construct, reconstruct or repair, as the case may be, and maintain and keep up the fence, and that the other adjoining owner shall, upon being notified by the designated adjoining owner of the costs of the work incurred

from time to time, pay to the designated adjoining owner one-half or such other designated proportion as the fence-viewers consider just of the costs incurred from time to time, or

- (iii) the adjoining owner named shall construct, reconstruct or repair, as the case may be, and maintain and keep up the whole fence,

as the fence-viewers consider just;

- (c) the description of the fence, including the materials to be used in the construction, reconstruction, repair or maintenance and keeping up of the fence;
- (d) the date by which the construction, reconstruction or repairs shall be commenced and the date by which such work shall be completed; and
- (e) the costs of the proceedings and by which of the owners or in what proportion the costs of the proceedings are to be paid. R.S.O. 1970, c. 248, s. 7 (1), *amended*.

Character  
of fence

(2) In making the award, the fence-viewers shall have regard to the suitability of the fence to the needs of each of the adjoining owners or the occupants of their land, as the case may be, the nature of the terrain on which the fence is, or is to be, located, and the nature of the fences in use in the locality and may have regard to any other factors that they consider relevant. R.S.O. 1970, c. 248, s. 7 (2), *amended*.

Where  
by-law  
under  
R.S.O. 1970,  
c. 284  
in force

(3) Where there is a by-law in force in the municipality under *The Municipal Act* prescribing the height and description of lawful fences or otherwise regulating the construction of fences, the description of the fence specified in the award shall conform to the by-law. *New*.

Location  
of fence

(4) Where, from the formation of the ground by reason of streams or other causes, it is, in the opinion of the fence-viewers, impracticable to locate the fence upon the line between the lands of the adjoining owners, they may locate it either wholly or partly on the land of either of the adjoining owners where it seems to be most convenient, but such location shall not in any way affect the title to the land. R.S.O. 1970, c. 248, s. 7 (3), *amended*.

(5) Where the fence-viewers locate a fence wholly or partly on the land of either of the adjoining owners under subsection 4, the fence-viewers may employ an Ontario land surveyor to have the location of the fence described by metes and bounds. R.S.O. 1970, c. 248, s. 7 (4), *amended*. <sup>Employment of surveyor</sup>

(6) Subsections 2, 3 and 4 of section 17 respecting the payment of fees to fence-viewers and for the collection of amounts paid on account thereof by the municipality apply with necessary modifications to fees payable to a land surveyor employed under subsection 5. *New*. <sup>Fees of land surveyor</sup>

8.—(1) The award shall be deposited in the office of the clerk of the local municipality in which the land is situate, and may be proved by a copy certified by the clerk, and a copy of the award certified by the clerk shall forthwith be sent by him by registered mail to the owners and occupants of the adjoining lands to their last known place of residence. R.S.O. 1970, c. 248, s. 8, *amended*. <sup>Deposit of award, etc.</sup>

(2) Where the lands of the adjoining owners are situate in different local municipalities, a clerk under subsection 1 shall, forthwith upon the deposit of an award in his office, forward a copy of it certified by him to the clerk of the other municipality in which part of the lands are situate. *New*. <sup>Where land situate in different municipalities</sup>

9.—(1) An owner dissatisfied with the award may appeal therefrom to a judge of the small claims court for the territorial division in which the land is situate by serving on the owner or occupant of the adjoining land and the fence-viewers, within fifteen days of receiving a copy of the award made under section 7, a notice of appeal in the prescribed form and by filing a copy of each notice together with an affidavit of service of the notice in the prescribed form with the clerk of the court within that period. R.S.O. 1970, c. 248, s. 12 (1), *amended*. <sup>Appeal</sup>

(2) A notice under subsection 1 shall be served by the owner in the same manner as a notice to an owner or occupant is served by the clerk under section 4. *New*. <sup>Service of notice</sup>

(3) Upon the filing of the copies of the notices and the affidavits mentioned in subsection 1, the clerk of the court shall forthwith fix the time and place for the hearing of the appeal, and notice of the time and place of the appeal shall be served on each person served with a notice under subsection 1 and on the owner giving notice under that subsection and a notice under this subsection shall be served in the same manner as a notice of trial is served on a party to a suit under *The Small Claims Courts Act*. R.S.O. 1970, c. 248, s. 12 (4), *amended*. <sup>Notice of hearing</sup> R.S.O. 1970, c. 439



Powers of  
judge

(4) The judge shall hear and determine the appeal and may set aside, alter or affirm the award, or correct any error therein, and may examine the parties and their witnesses on oath, and may inspect the premises and may order payment of costs by either party and fix the amount of the costs.

Decision  
of judge  
to be final

(5) The decision of the judge is final and the award, as altered or affirmed, shall be dealt with in all respects as it would have been if it had not been appealed from. R.S.O. 1970, c. 248, s. 12 (5, 6).

Procedure

(6) The practice and procedure on the appeal, including the fees payable for subpoenas and the conduct money of witnesses, shall be the same, as nearly as may be, as in the case of a suit in the small claims court, but the judge may at any time give special direction as to the conduct of the hearing so that he may properly and fully inform himself of all relevant facts and may at any time order such sum of money to be paid by the appellant to the clerk as will be a sufficient indemnity against the costs of the appeal. R.S.O. 1970, c. 248, s. 12 (7), *amended*.

Where  
land in  
different  
court  
divisions

(7) Notwithstanding subsections 1 and 3, where the award affects land in two or more territorial divisions, the appeal may be to the judge of the small claims court for the territorial division in which any part of the land is situate and in such case the documents mentioned in subsection 1 shall be filed with the clerk of the court in which the appeal is to be heard. R.S.O. 1970, c. 248, s. 12 (8), *amended*.

Judge's  
expenses

**10.**—(1) If the judge of the small claims court inspects the premises or hears the appeal at a place other than the place where proceedings in that court are usually conducted, he is entitled to be paid the actual expenses incurred by him and, in the order setting aside, altering or affirming the award, shall fix the amount of such expenses and name the person by whom the amount is to be paid.

Municipality  
to pay  
expenses  
and collect  
amount

(2) The judge shall be paid by the corporation of the municipality the amount so fixed, and it shall be collected in the same manner as is provided in respect of the fence-viewer's fees. R.S.O. 1970, c. 248, s. 14, *amended*.

Owner may  
require  
award to be  
obeyed

**11.**—(1) Where the award specifies that a portion or all of the fence shall be repaired, constructed, reconstructed, maintained or kept up by one adjoining owner and that adjoining owner fails to obey the award, the other adjoining

owner may, by notice, served by him on the first adjoining owner or the occupant of his land, require the first adjoining owner to obey the award. R.S.O. 1970, c. 248, s. 10 (1), *part, amended.*

(2) A notice served by an adjoining owner under subsection 1 shall be served in the same manner as a notice to an owner or occupant is served by the clerk under section 4. *New.* Service of notice

(3) If the notice is not obeyed within two weeks after it has been served, the owner desiring to enforce the award may do or complete the work that the award directs and may immediately institute proceedings to recover the value of the work done or completed and the costs of the proceedings from the owner of the adjoining land. R.S.O. 1970, c. 248, s. 10 (1), *part, amended.* Completion of work by owner

(4) An owner, or any person acting on his behalf, in doing or completing work pursuant to an award under section 7 or under subsection 3 or under subsection 7 of section 13, may enter on the property of the adjoining owner to the extent that it is necessary to do or complete the work, but in making such entry or doing or completing such work shall do no unnecessary spoil or waste. *New.* Entry on property of adjoining owner

(5) No person shall obstruct or threaten to obstruct a person entering on to property or doing or completing work in accordance with subsection 4 and every person who contravenes this subsection is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. *New.* Obstruction an offence

(6) Where the award specifies that one adjoining owner shall pay to the designated adjoining owner a portion of the costs of the work under subclause ii of clause b of subsection 1 of section 7, the designated adjoining owner may notify the other adjoining owner or the occupant of his land of the amount owing in accordance with the award in the same manner as an owner may give notice under subsection 2, and, where such amount is not paid within twenty-eight days following the day on which the notice is given, the designated adjoining owner may institute proceedings to recover the amount and the costs of the proceedings from the other adjoining owner. Notice of amount owing in accordance with award

(7) An owner desiring to institute proceedings under subsection 3 or 6 shall notify the clerk of the local municipality in which the land is situate that he desires the three fence-viewers who made the award to reattend at the premises and certify, Certification of fence-viewers

- (a) the default of the adjoining owner; and
- (b) the value of the work done by the owner which according to the award ought to have been done by the adjoining owner or the portion of the costs of the work done which ought to have been paid by the adjoining owner, as the case may be.

Notice by  
clerk

(8) Where the clerk of a municipality is notified by an owner under subsection 7, he, or such other person as may be designated by the council for the purpose of giving notices under this section, shall forthwith notify in the prescribed form that owner and the owner or occupant of the adjoining land that he will, on a day named, not less than one week from the service of the notice, cause the fence-viewers to reattend at the premises and he shall also notify in the prescribed form the fence-viewers not less than one week before their services are required.

Idem

(9) The notices in each case shall be signed by the clerk or such other designated person, as the case may be, and shall specify the time and place of the reconvening of the fence-viewers, and the notices shall be served in the same manner as a notice served under subsection 3 of section 4.

Notice to  
another  
fence-viewer  
to attend

(10) Where an owner notifies the clerk under subsection 7, and for any reason any of the three fence-viewers who made the award is unable to reattend at the premises, the clerk shall notify another fence-viewer of the municipality to attend in his place. *New.*

Duties of  
fence-viewers

**12.—**(1) The fence-viewers, upon receiving a notice served under subsection 8 of section 11, or upon being notified under subsection 10 of that section, shall attend in accordance with such notice, and if satisfied that the adjoining owner or the occupant of his land was duly notified under subsection 1 or 6, as the case may be, of section 11 and has failed to obey the award, the fence-viewers shall,

- (a) where the adjoining owner or the occupant of his land was notified under subsection 1 of section 11, determine the value of the work done by the owner desiring to enforce the award which is attributable to the adjoining owner and shall prepare a certificate in the prescribed form certifying the default of the adjoining owner and certifying the value of the said work; or
- (b) where the adjoining owner or the occupant of his land was notified under subsection 6 of section 11, determine the value of the work done by the owner

desiring to enforce the award and the portion of that value payable by the adjoining owner and shall prepare a certificate in the prescribed form certifying the default of the adjoining owner and the amount payable by him as his share of the costs of the work.

(2) The fence-viewers shall specify in a certificate under subsection 1 the costs of the proceedings described in that subsection and shall specify either that the adjoining owner or that the other owner pay the costs, or that each of them pay a specified portion of the costs. Costs

(3) The fence-viewers shall, in the certificate, certify the amount payable by the adjoining owner as his share of the costs of the proceedings described in subsection 1 and of the proceedings under section 4, less the portion of that amount payable as fees to the fence-viewers or fees to a land surveyor employed under subsection 5 of section 7, and the total amount certified pursuant to this subsection and subsection 1 shall become payable to the owner desiring to enforce the award. Idem

(4) Upon preparing a certificate under subsection 1, the fence-viewers shall forthwith deposit the certificate with the clerk of the local municipality within which the land is situate and the provisions of subsections 1 and 2 of section 8 respecting an award apply with necessary modifications to the certificate. *New.* Deposit of certificate

(5) The clerk of the local municipality in which the land of the adjoining owner is situate shall, upon receiving a certificate prepared under subsection 1 and the award in respect of which the certificate was made, or copies thereof certified by the clerk in accordance with this Act, and upon application in writing by the owner entitled to receive the amount certified, have the total amount certified placed upon the collector's roll and the amount may be collected in the same manner as taxes, together with interest thereon accruing from the date the application was made at the same rate as interest added by the municipality under section 553 of *The Municipal Act* to taxes due and unpaid, and is until so collected or otherwise paid a charge upon the land liable for payment thereof and when collected shall forthwith be paid over to the owner entitled thereto. Collection of amount as taxes  
R.S.O. 1970, c. 284  
 c. 248, s. 10 (2), *amended.*

(6) Notwithstanding subsection 5, the council of a local municipality may, by by-law, provide that where a certificate and an award mentioned in that subsection and made in respect of land situate within the municipality, or copies Payment by treasurer



thereof certified by a clerk in accordance with this Act, are deposited with the clerk of the municipality, the treasurer of the municipality may, upon written application therefor, pay to the owner entitled to receive the amount certified, the amount so certified or a portion thereof, where he is satisfied that the owner is entitled thereto, and where an owner has received the amount certified or a portion thereof under this subsection, he is not entitled to make an application or receive an amount under subsection 5.

Collection  
of amount  
as taxes

R.S.O. 1970,  
c. 284

(7) An amount paid to an owner under subsection 6 shall be placed upon the collector's roll and may be collected in the same manner as municipal taxes together with interest thereon accruing from the date of payment at the same rate as the interest added by the municipality under section 553 of *The Municipal Act* to taxes due and unpaid, and is until so collected or otherwise paid a charge upon the land liable for payment thereof.

Notice by  
treasurer

(8) Upon making a payment to an owner under subsection 6, the treasurer shall forthwith notify in the prescribed form the adjoining owner against whom the award is being enforced that the payment has been made.

Levy of  
amount  
against  
goods and  
chattels

R.S.O. 1970,  
c. 439

(9) Instead of having the amount certified placed upon the collector's roll, or instead of applying for that amount or a portion thereof under a by-law passed pursuant to subsection 6, the owner entitled to receive the amount may file a copy of the certificate and of the award in respect of which the certificate was made, certified by the clerk in accordance with this Act, with the clerk of the small claims court of the division in which any part of the land affected by the award is situate, and upon being so filed, the amount may be levied against the goods and chattels and land of the adjoining owner in the same manner as the amount of a judgment of a small claims court may be levied under *The Small Claims Courts Act*. *New.*

When work  
may be  
dismantled

**13.**—(1) Notwithstanding subsection 3 of section 11, an owner desiring to enforce an award shall not dismantle work done by the adjoining owner in respect of the fence mentioned in the award except in accordance with this section.

Notice

(2) Where in the opinion of an owner work done by an adjoining owner pursuant to an award made under section 7 in respect of their lands is not in compliance with the description of the fence or the location of the fence as specified in the award, the owner may, by notice served by him on the adjoining owner or occupant of his land, require the adjoining owner to make the work comply with the award.

(3) A notice under subsection 2 shall specify in what <sup>Particulars</sup> particulars the work done fails to comply with the award and shall be served by an owner in the same manner as a notice to an owner or occupant is served by the clerk under section 4.

(4) If the notice is not obeyed within two weeks after it <sup>Fence-viewers</sup> has been served, the owner may cause the fence-viewers to <sup>to reattend</sup> reattend at the premises to view the work and to determine whether or not the work complies with the award.

(5) The provisions of section 4 respecting the convening of <sup>Service of</sup> fence-viewers apply with necessary modifications to the recalling of fence-viewers under subsection 4. <sup>notices</sup>

(6) Where the fence-viewers determine under subsection 4 <sup>Powers of</sup> that the work does not comply with the award, they shall in <sup>fence-viewers</sup> the prescribed form set out their determination with reasons therefor and shall specify the action to be taken by the adjoining owner to make such work comply, the date by which such action shall commence, and the date by which the work shall be completed.

(7) Where the adjoining owner does not comply with the <sup>Where owner</sup> directions given by the fence-viewers under subsection 6, <sup>does not</sup> the owner that initiated the proceedings under this section <sup>comply</sup> may, by notice to the adjoining owner or the occupant of his land, require the adjoining owner to obey the directions, and the provisions of sections 11 and 12 respecting the enforcement of an award apply with necessary modifications to the enforcement of the directions given by the fence-viewers under subsection 6.

(8) Where the fence-viewers make a determination with <sup>Fees</sup> directions under subsection 6, they shall specify the fees payable in respect of their services under subsections 4 and 6 and that the fees be paid by the adjoining owner or the other owner or that a specified portion of the fees be paid by each of them.

(9) Section 8 applies with necessary modifications to a <sup>Deposit of</sup> determination with directions made by the fence-viewers <sup>determination</sup> under subsection 6. *New.*

**14.**—(1) Where the fence-viewers have attended at premises <sup>Where no</sup> pursuant to a notice given under subsection 2 of section 4, <sup>award made,</sup> subsection 8 of section 11, or subsection 5 or 7 of section 13, <sup>fees of</sup> and have decided that no award, certificate, or determination <sup>fence-viewers</sup> with directions as the case may be, shall be made, they shall prepare their decision in the prescribed form giving

reasons therefor, and shall specify in the decision that the fees of the fence-viewers in respect of such attendance be paid either by one adjoining owner or by the other or that a specified portion of the fees be paid by each of them.

Deposit  
of decision

(2) Section 8 applies, with necessary modifications, to a decision made under subsection 1. *New.*

Award to be  
a charge on  
land if  
registered

**15.**—(1) The award and a certificate made in respect of the award may be registered in the proper land registry office and when registered are charges upon the land affected by them.

How  
registered

(2) Registration may be by the registration of a duplicate of the award or certificate, as the case may be, or of a copy thereof, verified by an affidavit, together with an affidavit of the execution of the award or certificate. R.S.O. 1970, c. 248, s. 11, *amended.*

Enforcement  
of agreements

**16.** Any agreement in writing in the prescribed form between owners respecting a line fence may be registered and enforced as if it were an award of fence-viewers. R.S.O. 1970, c. 248, s. 15, *amended.*

Fees to  
surveyors  
and witnesses

**17.**—(1) An Ontario land surveyor and a witness are entitled to the same compensation as if subpoenaed in a small claims court.

Payment of  
fence-viewers  
fees

(2) The corporation of the local municipality shall, at the expiration of the time for appeal from an award made under section 7 or after appeal, as the case may be, and, where applicable, upon the depositing of a certificate under subsection 4 of section 12 or subsection 7 of section 13, or of a determination with directions under subsection 9 of section 13, or a decision under section 14, pay to the fence-viewers their fees, and shall, unless the fees or a portion thereof are forthwith repaid by the person adjudged to pay the fees or the portion thereof, place the amount unpaid upon the collector's roll, and the amount may be collected in the same manner as municipal taxes together with interest thereon accruing from the date of payment at the same rate as the interest added by the municipality under section 553 of *The Municipal Act*, to taxes due and unpaid and is until so collected or otherwise paid a charge upon the land liable for payment thereof. R.S.O. 1970, c. 248, s. 13, *amended.*

R.S.O. 1970,  
c. 284

Where land  
in adjacent  
municipality

(3) Where the land of the person adjudged to pay the fees or a portion thereof is not situate within the local municipality, the clerk of the municipality shall, where the land is situate in an adjacent municipality, notify the clerk

of the adjacent municipality of the amount owing by such person in respect of the fees or the portion thereof, and the clerk of the adjacent municipality shall place the amount upon the collector's roll for that municipality, and the amount may be collected in the same manner as municipal taxes together with interest thereon accruing from the date of payment at the same rate as the interest added by the municipality under section 553 of *The Municipal Act*, to taxes due and unpaid, and is until so collected or otherwise paid a charge upon the land liable for payment thereof, and when the amount with interest or any part thereof is collected the clerk shall forthwith remit it to the clerk of the municipality that gave the notice under this subsection.

R.S.O. 1970,  
c. 284

(4) Where the land of the person adjudged to pay the fees or a portion thereof is situate in territory without municipal organization, the amount owing by such person in respect of the fees or the portion thereof may be recovered with interest as a debt due to the municipality from such person. *New.*

Where land in  
unorganized  
territory

**18.** Where there is an unopened road allowance lying between the lands of two owners and not enclosed by a lawful fence, it is the duty of the fence-viewers, when called upon, to divide the road allowance equally between the owners of the lands, and to require each owner to construct, keep up and maintain a just proportion of fence to mark the division line, but nothing in this section in any way affects or interferes with the rights of the municipality in the road allowance or is deemed to confer any title therein upon such owners or either of them. R.S.O. 1970, c. 248, s. 2 (3), *amended.*

Unopened  
road  
allowance

**19.—**(1) Where land that was formerly used as part of a line of railway is conveyed in its entire width by the railway company,

Duties of  
owner of  
former  
railway  
right-of-way

(a) to the owner of abutting land, such owner, his heirs, executors and assigns, are responsible for constructing, keeping up and repairing the fence that marks the lateral boundary between the conveyed lands and the lands of the adjoining owner for a period of ten years from the date of the conveyance and thereafter section 4 applies;

(b) to a person who is not the owner of abutting land, such person, his heirs, executors and assigns, are responsible for constructing, keeping up and repairing the fences that mark the lateral boundaries of such land; or



R.S.O. 1970,  
c. 100

- (c) to the Crown in right of Ontario, a Crown agency within the meaning of *The Crown Agency Act* or the corporation of a municipality where the Crown, Crown agency or corporation, as the case may be, is not the owner of abutting land, the Crown, Crown agency or corporation is responsible for constructing, keeping up and repairing the fences that mark the lateral boundaries of such land. R.S.O. 1970, c. 248, s. 3, *amended*.

Interpre-  
tation

- (2) For the purpose of clause *c* of subsection 1, "municipality" includes a regional, metropolitan or district municipality and the County of Oxford. *New*.

Certain  
fences  
removable  
on notice

**20.**—(1) The owner of the whole or part of a line fence that forms part of the fence marking the boundary between his land and the land of an adjoining owner shall not take down or remove any part of such fence.

- (a) without giving at least six months previous notice of his intention to the owner or occupant of the adjacent land unless the owner or occupant, after demand made upon him in writing by the owner of the fence, refuses to pay therefor the sum determined as provided by section 7; or
- (b) if such owner or occupant will pay to the owner of the fence or part thereof such sum as the fence-viewers may award to be paid therefor under section 7.

Other  
provisions  
of Act  
to apply

(2) The provisions of this Act for determining disputes between owners of adjoining lands, the manner of enforcing awards and appeals therefrom and the prescribed forms and all other provisions of this Act, so far as applicable, apply to proceedings under this section. R.S.O. 1970, c. 248, s. 16, *amended*.

Where tree  
thrown down  
across  
line fence

**21.**—(1) If any tree is thrown down by accident or otherwise across a line fence, or in any way in and upon the land adjoining that upon which the tree stood, causing damage to the crop upon such land or to such fence, the owner or occupant of the land on which the tree stood shall forthwith remove it and also forthwith repair the fence and otherwise make good any damage caused by the falling of the tree. R.S.O. 1970, c. 248, s. 17 (1).

When  
injured  
party  
may remove  
tree

(2) On the neglect or refusal of the owner or occupant of the land on which the tree stood so to do for forty-eight hours after notice in writing to remove the tree, the injured

person may remove it in the most convenient and inexpensive manner, and may make good the fence so damaged, and may retain the tree to remunerate him for such removal, and may also recover any further amount of damages beyond the value of the tree from the person liable to pay it. R.S.O. 1970, c. 248, s. 17 (2), *amended*.

(3) For the purpose of such removal, the owner of the tree may enter into and upon the adjoining land doing no unnecessary spoil or waste. Right of entry

(4) All questions arising under this section shall be adjusted by three fence-viewers of the municipality, the decision of any two of whom is binding upon the parties. Fence-viewers to decide disputes  
R.S.O. 1970, c. 248, s. 17 (3, 4).

**22.**—(1) Except as otherwise provided in clause *c* of subsection 1 of section 19 and subject to subsections 3 and 4 of this section, this Act does not apply to lands owned by the corporation of a municipality or a local board within the meaning of *The Municipal Affairs Act*. Act not to apply to lands of a municipality or local board  
R.S.O. 1970, c. 118

(2) For the purposes of this section, “municipality” includes a regional, metropolitan or district municipality and the County of Oxford. Interpretation

(3) The council of a municipality or a local board may enter into agreements with owners of land adjoining land owned by the municipality or the local board, as the case may be, for the construction, reconstruction, repair, maintenance and keeping up of line fences to mark the boundary of such lands, and any such agreement when reduced to writing in the prescribed form may be registered and enforced as if it were an agreement between owners under section 16. Agreements

(4) This Act applies to lands owned by a municipality or a local board, or to any class or classes of such lands, where the council of the municipality or the local board, as the case may be, has provided that this Act shall apply. When Act applies to lands owned by municipality or local board

(5) For the purposes of this section, “local board” does not include a conservation authority under *The Conservation Authorities Act*. *New*. Interpretation  
R.S.O. 1970, c. 78

**23.** Except as otherwise provided in clause *c* of subsection 1 of section 19, this Act does not apply so as to bind the Crown in right of Ontario or a Crown agency within the meaning of *The Crown Agency Act*. *New*. Crown not bound by Act  
R.S.O. 1970, c. 100

Where Act  
not to apply

**24.** The provisions of this Act respecting the apportionment of the costs of a line fence and the enforcement thereof do not apply in a municipality where a by-law passed under paragraph 21 of subsection 1 of section 354 of *The Municipal Act* is in force. *New.*

R.S.O. 1970,  
c. 284

Regulations  
by Minister

**25.** The Minister may make regulations prescribing forms for the purposes of this Act and providing for their use. *New.*

Regulations  
by  
Lieutenant  
Governor  
in Council

**26.** The Lieutenant Governor in Council may make regulations to provide for determining how the costs of line fences marking the boundary between lands situate in territory without municipal organization shall be apportioned, and for providing for the manner in which any amount so apportioned shall be recoverable. *New.*

Inspection  
of awards,  
decisions, etc.

**27.** Subsection 1 of section 216 of *The Municipal Act* applies, with necessary modifications, to an award, certificate, determination, decision, notice or other document that, as a result of proceedings initiated under this Act is in the possession or under the control of the clerk or a person designated by the council under this Act for the purpose of giving notices. *New.*

R.S.O. 1970,  
c. 248,  
repealed

**28.** *The Line Fences Act*, being chapter 248 of the Revised Statutes of Ontario, 1970, is repealed.

Commence-  
ment

**29.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**30.** The short title of this Act is *The Line Fences Act*, 1979.









An Act to revise  
The Line Fences Act

---

*1st Reading*

March 15th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

---

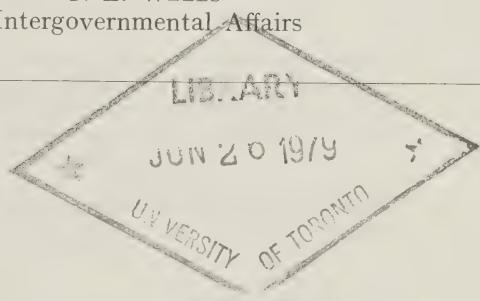
*(Government Bill)*

26N  
B  
B56

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to revise The Line Fences Act**

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs



*(Reprinted as amended by the Committee of the Whole House)*



## EXPLANATORY NOTES

Bill 135, An Act to revise *The Line Fences Act*, was introduced in the Legislature and given first reading on June 22nd, 1978. Following its first reading that Bill was widely circulated and comments on it were sought from interested persons. Bill 201 was given first reading on December 8th, 1978. It replaced Bill 135 and incorporated a number of recommendations that were received; in addition, some sections were reworded in an attempt to make their provisions clearer and the sequence of others was rearranged to provide a more logical structure to the Bill.

With only minor revisions, this Bill incorporates the same provisions as were found in Bill 201; it revises and replaces the existing *Line Fences Act* that has remained substantially unaltered since its first appearance under that name in the Statutes of 1913. Among its principal features will be found the following:

1. Provision is made to govern the situation where the land of one owner is situate in a local municipality while that of the adjoining owner is situate in territory without municipal organization (s. 1 (3) and s. 17 (4) ).
2. While the Act generally will not extend to unorganized territory in Ontario, the Lieutenant Governor in Council is empowered to make regulations to provide for determining how the costs of line fences are to be apportioned in such territory and for the manner in which the costs will be recoverable (s. 27).
3. Municipalities are required to appoint a sufficient number of fence-viewers and to set out in the appointing by-law the *per diem* remuneration they are to be paid (s. 2).
4. It is made explicit that an owner of land may construct and maintain a fence to mark the boundary between his and adjoining lands (s. 3).
5. No distinction is made in the application of the Act between occupied and unoccupied lands.
6. When an owner wishes the fence-viewers to view and arbitrate, he notifies the municipal clerk and the clerk in turn notifies the adjoining owner and three fence-viewers, specifying the time and place of the meeting for the arbitration (s. 4).
7. In their award, the fence-viewers may specify that each owner be responsible for a designated portion of the fence (normally, one-half) or that while one owner be responsible for the construction or repair of the whole

of the fence the other owner contribute a specified portion of the costs incurred (normally, one-half); if the fence-viewers consider either alternative to be unjust, they may make such other award as they consider appropriate (s. 7).

8. Where one owner does not obey the award the other owner may, on notice, himself do the work and cause the fence-viewers to reattend to certify the default and the value of the work done. The amount may be recovered by the certificate being deposited with the clerk who places the amount on the collector's roll to be collected in the same manner as taxes. Alternatively, the certificate may be filed with the clerk of the appropriate small claims court and the amount recovered in the same manner as the amount of a judgment in that court (ss. 11, 12).
9. An owner in the process of constructing a fence pursuant to an award or direction under the Act is empowered to enter on adjoining land to the extent necessary; it is made an offence to obstruct that owner from entering on the land (s. 11 (4, 5) ).
10. An owner dissatisfied with the fence-viewers award may appeal therefrom to a judge of the small claims court (s. 9).
11. Where one owner feels that the work done by an adjoining owner pursuant to an award is not in compliance with the award, he may cause the fence-viewers to reattend; the fence-viewers may require the appropriate action to be taken by the owner at fault and on his failure to do so the aggrieved owner may himself do the work and recover the cost (s. 13).
12. The Crown in right of Ontario, a Crown agency or a municipality that has land conveyed to it that was formerly a railway right-of-way, if it is not the owner of abutting land, is obligated to fence both sides of the former railway lands it has acquired (s. 19 (1) (c) ).
13. The Act applies to lands owned by a municipality or local board; additionally, municipalities and boards may enter into agreements with owners of adjoining land for the construction and maintenance of boundary fences (s. 22).
14. The Act is binding on the Crown or a Crown agency except for certain exceptions and limitations (s. 23).
15. The Act does not apply to lands that constitute a public highway (s. 24).
16. The Minister is authorized to make regulations prescribing forms for the purposes of the Act (s. 26).

BILL 17

1979

## An Act to revise The Line Fences Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-  
tation

- (a) "Minister" means the Minister of Intergovernmental Affairs;
- (b) "occupant" means the occupant of adjoining land that is subject or proposed to be made subject to proceedings instituted under section 4;
- (c) "prescribed" means prescribed by the regulations;
- (d) "regulations" means regulations made under this Act;
- (e) "value of the work" and "costs of the work" have the same meaning and include the value of the materials used and the value of the labour performed to complete the work. *New.*

(2) Where, within the meaning of section 4, there is a <sup>Idem</sup> dispute between owners or occupants of lands situate in different local municipalities,

- (a) "fence-viewers" means two fence-viewers of the local municipality in which is situate the land of the owner or occupant notified under section 4, and one fence-viewer of the local municipality in which is situate the land of the person instituting the proceedings under that section;
- (b) "in which the land is situate" or "in which the land lies" means in which is situate the land of the owner or occupant so notified under section 4. R.S.O. 1970, c. 248, s. 1 (2), *amended.*



Idem

(3) Where, within the meaning of section 4, there is a dispute between the owner or occupant of land situate in a local municipality and the owner or occupant of land situate in territory without municipal organization,

(a) "fence-viewers" means three fence-viewers appointed by the local municipality in which the land of the one owner or occupant is situate, and at least one of the fence-viewers shall be resident outside the municipality in the vicinity of the land of the other owner or occupant;

(b) "local municipality in which the land is situate" means the local municipality in which is situate the land of the one owner or occupant. *New.*

Appointment  
of fence-  
viewers

**2.** The council of every local municipality shall, by by-law, appoint such number of fence-viewers as are required to carry out the provisions of this Act and the by-law shall fix the *per diem* remuneration to be paid to the fence-viewers. *New.*

Owner of land  
may construct  
boundary  
fence

**3.** An owner of land may construct and maintain a fence to mark the boundary between his land and adjoining lands. *New.*

Owner may  
request fence-  
viewers to  
view and  
arbitrate

**4.—(1)** Where the owner of any land desires to have a fence constructed to mark the boundary between his land and the land of an adjoining owner, or where such a fence exists, to have it repaired or reconstructed and where he has not entered into a written agreement with the adjoining owner for sharing the costs of the construction, reconstruction, or repair, as the case may be, of such fence, he may notify the clerk of the local municipality in which the land is situate that he desires fence-viewers to view and arbitrate as to what portion of the fence each owner shall construct, reconstruct or repair and maintain and keep up.

Notice by  
clerk

(2) Where the clerk of a municipality is notified under subsection 1, he, or such other person as may be designated by the council for the purpose of giving notices under this section, shall notify in the prescribed form the owner mentioned in subsection 1 and the adjoining owner or the occupant of the land of the adjoining owner that he will on a day named, not less than one week from the service of the notice, cause three fence-viewers of the locality to arbitrate in the premises and he shall notify in the prescribed form the fence-viewers not less than one week before their services are required that they are required to meet to arbitrate in the premises.


(3) A notice under subsection 2 shall be signed by the <sup>Idem</sup> clerk or such other designated person, as the case may be, and shall specify the time, being not more than thirty days from the date of the receipt of the notice under subsection 1, and place of the meeting for the arbitration, and the notice shall be given to a person mentioned in subsection 2 by sending it to him by registered mail at the address where he resides or, in the case of a notice to an owner or occupant, may instead be given by leaving it with him at his place of residence or with some other person, over the age of eighteen years, residing thereat. R.S.O. 1970, c. 248, s. 4, *part, amended.*

**5.** Where an occupant who is not the owner of the land is given a notice under this Act, he shall immediately inform the owner of the notice, and, if he neglects to do so, he is liable for all damage caused to the owner by such neglect. R.S.O. 1970, c. 248, s. 5, *amended.* <sup>Duty and liability of occupants as to notifying owners</sup>

**6.** The fence-viewers shall examine the premises and, if required by either adjoining owner, shall hear evidence and may examine the owners and their witnesses on oath. R.S.O. 1970, c. 248, s. 6, *amended.* <sup>Duties and powers of fence-viewers</sup>


**7.—(1)** The fence-viewers shall make an award in the prescribed form, signed by any two of them, respecting the matters in dispute and the award shall state that a fence shall be constructed and maintained and kept up to mark the boundary between the adjoining lands, or, where such a fence exists, that the fence shall be reconstructed or repaired, and shall be maintained and kept up, and the award shall specify, <sup>Award of fence-viewers</sup>

(a) the location of the fence;

 (b) that,

- (i) each adjoining owner shall construct, reconstruct or repair, as the case may be, and maintain and keep up a designated one-half of the fence, or
- (ii) the adjoining owner designated shall construct, reconstruct or repair, as the case may be, and maintain and keep up the fence, and that the other adjoining owner shall, upon being notified by the designated adjoining owner of the costs of the work incurred from time to time, pay to the

designated adjoining owner one-half of the costs incurred,

unless the fence-viewers, in the circumstances of the case, consider an award in the terms of sub-clauses i or ii to be unjust, in which case the fence-viewers may make such award in respect of the construction, reconstruction, repair or maintenance of the fence as they consider appropriate; 

- (c) the description of the fence, including the materials to be used in the construction, reconstruction, repair or maintenance and keeping up of the fence;
- (d) the date by which the construction, reconstruction or repairs shall be commenced and the date by which such work shall be completed; and
- (e) the costs of the proceedings and by which of the owners or in what proportion the costs of the proceedings are to be paid. R.S.O. 1970, c. 248, s. 7 (1), *amended*.

Character  
of fence

(2) In making the award, the fence-viewers shall have regard to the suitability of the fence to the needs of each of the adjoining owners or the occupants of their land, as the case may be, the nature of the terrain on which the fence is, or is to be, located, and the nature of the fences in use in the locality and may have regard to any other factors that they consider relevant. R.S.O. 1970, c. 248, s. 7 (2), *amended*.

Where  
by-law  
under  
R.S.O. 1970,  
c. 284  
in force

(3) Where there is a by-law in force in the municipality under *The Municipal Act* prescribing the height and description of lawful fences or otherwise regulating the construction of fences, the description of the fence specified in the award shall conform to the by-law. *New*.

Location  
of fence

(4) Where, from the formation of the ground by reason of streams or other causes, it is, in the opinion of the fence-viewers, impracticable to locate the fence upon the line between the lands of the adjoining owners, they may locate it either wholly or partly on the land of either of the adjoining owners where it seems to be most convenient, but such location shall not in any way affect the title to the land. R.S.O. 1970, c. 248, s. 7 (3), *amended*.

(5) Where the fence-viewers locate a fence wholly or partly on the land of either of the adjoining owners under subsection 4, the fence-viewers may employ an Ontario land surveyor to have the location of the fence described by metes and bounds. R.S.O. 1970, c. 248, s. 7 (4), *amended*. <sup>Employment of surveyor</sup>

(6) Subsections 2, 3 and 4 of section 17 respecting the payment of fees to fence-viewers and for the collection of amounts paid on account thereof by the municipality apply with necessary modifications to fees payable to a land surveyor employed under subsection 5. *New*. <sup>Fees of land surveyor</sup>

8.—(1) The award shall be deposited in the office of the clerk of the local municipality in which the land is situate, and may be proved by a copy certified by the clerk, and a copy of the award certified by the clerk shall forthwith be sent by him by registered mail to the owners and occupants of the adjoining lands to their last known place of residence. R.S.O. 1970, c. 248, s. 8, *amended*. <sup>Deposit of award, etc.</sup>

(2) Where the lands of the adjoining owners are situate in different local municipalities, a clerk under subsection 1 shall, forthwith upon the deposit of an award in his office, forward a copy of it certified by him to the clerk of the other municipality in which part of the lands are situate. *New*. <sup>Where land situate in different municipalities</sup>

9.—(1) An owner dissatisfied with the award may appeal therefrom to a judge of the small claims court for the territorial division in which the land is situate by serving on the owner or occupant of the adjoining land and the fence-viewers, within fifteen days of receiving a copy of the award made under section 7, a notice of appeal in the prescribed form and by filing a copy of each notice together with an affidavit of service of the notice in the prescribed form with the clerk of the court within that period. R.S.O. 1970, c. 248, s. 12 (1), *amended*. <sup>Appeal</sup>

(2) A notice under subsection 1 shall be served by the owner in the same manner as a notice to an owner or occupant is served by the clerk under section 4. *New*. <sup>Service of notice</sup>

(3) Upon the filing of the copies of the notices and the affidavits mentioned in subsection 1, the clerk of the court shall forthwith fix the time and place for the hearing of the appeal, and notice of the time and place of the appeal shall be served on each person served with a notice under subsection 1 and on the owner giving notice under that subsection and a notice under this subsection shall be served in the same manner as a notice of trial is served on a party to a suit under *The Small Claims Courts Act*. R.S.O. 1970, c. 248, s. 12 (4), *amended*. <sup>Notice of hearing</sup> <sup>R.S.O. 1970, c. 439</sup>



Powers of  
judge

(4) The judge shall hear and determine the appeal and may set aside, alter or affirm the award, or correct any error therein, and may examine the parties and their witnesses on oath, and may inspect the premises and may order payment of costs by either party and fix the amount of the costs.

Decision  
of judge  
to be final

(5) The decision of the judge is final and the award, as altered or affirmed, shall be dealt with in all respects as it would have been if it had not been appealed from. R.S.O. 1970, c. 248, s. 12 (5, 6).

Procedure

(6) The practice and procedure on the appeal, including the fees payable for subpoenas and the conduct money of witnesses, shall be the same, as nearly as may be, as in the case of a suit in the small claims court, but the judge may at any time give special direction as to the conduct of the hearing so that he may properly and fully inform himself of all relevant facts and may at any time order such sum of money to be paid by the appellant to the clerk as will be a sufficient indemnity against the costs of the appeal. R.S.O. 1970, c. 248, s. 12 (7), *amended*.

Where  
land in  
different  
court  
divisions

(7) Notwithstanding subsections 1 and 3, where the award affects land in two or more territorial divisions, the appeal may be to the judge of the small claims court for the territorial division in which any part of the land is situate and in such case the documents mentioned in subsection 1 shall be filed with the clerk of the court in which the appeal is to be heard. R.S.O. 1970, c. 248, s. 12 (8), *amended*.

Judge's  
expenses

**10.**—(1) If the judge of the small claims court inspects the premises or hears the appeal at a place other than the place where proceedings in that court are usually conducted, he is entitled to be paid the actual expenses incurred by him and, in the order setting aside, altering or affirming the award, shall fix the amount of such expenses and name the person by whom the amount is to be paid.

Municipality  
to pay  
expenses  
and collect  
amount

(2) The judge shall be paid by the corporation of the municipality the amount so fixed, and it shall be collected in the same manner as is provided in respect of the fence-viewer's fees. R.S.O. 1970, c. 248, s. 14, *amended*.

Owner may  
require  
award to be  
obeyed

**11.**—(1) Where the award specifies that a portion or all of the fence shall be repaired, constructed, reconstructed, maintained or kept up by one adjoining owner and that adjoining owner fails to obey the award, the other adjoining

owner may, by notice, served by him on the first adjoining owner or the occupant of his land, require the first adjoining owner to obey the award. R.S.O. 1970, c. 248, s. 10 (1), *part, amended.*

(2) A notice served by an adjoining owner under subsection 1 shall be served in the same manner as a notice to an owner or occupant is served by the clerk under section 4. *New.* Service of notice

(3) If the notice is not obeyed within two weeks after it has been served, the owner desiring to enforce the award may do or complete the work that the award directs and may immediately institute proceedings to recover the value of the work done or completed and the costs of the proceedings from the owner of the adjoining land. R.S.O. 1970, c. 248, s. 10 (1), *part, amended.* Completion of work by owner

(4) An owner, or any person acting on his behalf, in doing or completing work pursuant to an award under section 7 or under subsection 3 or under subsection 7 of section 13, may enter on the property of the adjoining owner to the extent that it is necessary to do or complete the work, but in making such entry or doing or completing such work shall do no unnecessary spoil or waste. *New.* Entry on property of adjoining owner

(5) No person shall obstruct or threaten to obstruct a person entering on to property or doing or completing work in accordance with subsection 4 and every person who contravenes this subsection is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. *New.* Obstruction an offence

(6) Where the award specifies that one adjoining owner shall pay to the designated adjoining owner a portion of the costs of the work under subclause ii of clause b of subsection 1 of section 7, the designated adjoining owner may notify the other adjoining owner or the occupant of his land of the amount owing in accordance with the award in the same manner as an owner may give notice under subsection 2, and, where such amount is not paid within twenty-eight days following the day on which the notice is given, the designated adjoining owner may institute proceedings to recover the amount and the costs of the proceedings from the other adjoining owner. Notice of amount owing in accordance with award

(7) An owner desiring to institute proceedings under subsection 3 or 6 shall notify the clerk of the local municipality in which the land is situate that he desires the three fence-viewers who made the award to reattend at the premises and certify, Certification of fence-viewers

(a) the default of the adjoining owner; and

(b) the value of the work done by the owner which according to the award ought to have been done by the adjoining owner or the portion of the costs of the work done which ought to have been paid by the adjoining owner, as the case may be.

Notice by  
clerk

(8) Where the clerk of a municipality is notified by an owner under subsection 7, he, or such other person as may be designated by the council for the purpose of giving notices under this section, shall forthwith notify in the prescribed form that owner and the owner or occupant of the adjoining land that he will, on a day named, not less than one week from the service of the notice, cause the fence-viewers to reattend at the premises and he shall also notify in the prescribed form the fence-viewers not less than one week before their services are required.

Idem

(9) The notices in each case shall be signed by the clerk or such other designated person, as the case may be, and shall specify the time and place of the reconvening of the fence-viewers, and the notices shall be served in the same manner as a notice served under subsection 3 of section 4.

Notice to  
another  
fence-viewer  
to attend

(10) Where an owner notifies the clerk under subsection 7, and for any reason any of the three fence-viewers who made the award is unable to reattend at the premises, the clerk shall notify another fence-viewer of the municipality to attend in his place. *New.*

Duties of  
fence-viewers

**12.**—(1) The fence-viewers, upon receiving a notice served under subsection 8 of section 11, or upon being notified under subsection 10 of that section, shall attend in accordance with such notice, and if satisfied that the adjoining owner or the occupant of his land was duly notified under subsection 1 or 6, as the case may be, of section 11 and has failed to obey the award, the fence-viewers shall,

(a) where the adjoining owner or the occupant of his land was notified under subsection 1 of section 11, determine the value of the work done by the owner desiring to enforce the award which is attributable to the adjoining owner and shall prepare a certificate in the prescribed form certifying the default of the adjoining owner and certifying the value of the said work; or

(b) where the adjoining owner or the occupant of his land was notified under subsection 6 of section 11, determine the value of the work done by the owner

desiring to enforce the award and the portion of that value payable by the adjoining owner and shall prepare a certificate in the prescribed form certifying the default of the adjoining owner and the amount payable by him as his share of the costs of the work.

(2) The fence-viewers shall specify in a certificate under subsection 1 the costs of the proceedings described in that subsection and shall specify either that the adjoining owner or that the other owner pay the costs, or that each of them pay a specified portion of the costs. Costs

(3) The fence-viewers shall, in the certificate, certify the amount payable by the adjoining owner as his share of the costs of the proceedings described in subsection 1 and of the proceedings under section 4, less the portion of that amount payable as fees to the fence-viewers or fees to a land surveyor employed under subsection 5 of section 7, and the total amount certified pursuant to this subsection and subsection 1 shall become payable to the owner desiring to enforce the award. Idem

(4) Upon preparing a certificate under subsection 1, the fence-viewers shall forthwith deposit the certificate with the clerk of the local municipality within which the land is situate and the provisions of subsections 1 and 2 of section 8 respecting an award apply with necessary modifications to the certificate. *New.* Deposit of certificate

(5) The clerk of the local municipality in which the land of the adjoining owner is situate shall, upon receiving a certificate prepared under subsection 1 and the award in respect of which the certificate was made, or copies thereof certified by the clerk in accordance with this Act, and upon application in writing by the owner entitled to receive the amount certified, have the total amount certified placed upon the collector's roll and the amount may be collected in the same manner as taxes, together with interest thereon accruing from the date the application was made at the same rate as interest added by the municipality under section 553 of *The Municipal Act* to taxes due and unpaid, and is until so collected or otherwise paid a charge upon the land liable for payment thereof and when collected shall forthwith be paid over to the owner entitled thereto. R.S.O. 1970, c. 284 Collection of amount as taxes  
R.S.O. 1970, c. 284

(6) Notwithstanding subsection 5, the council of a local municipality may, by by-law, provide that where a certificate and an award mentioned in that subsection and made in respect of land situate within the municipality, or copies Payment by treasurer



thereof certified by a clerk in accordance with this Act, are deposited with the clerk of the municipality, the treasurer of the municipality may, upon written application therefor, pay to the owner entitled to receive the amount certified, the amount so certified or a portion thereof, where he is satisfied that the owner is entitled thereto, and where an owner has received the amount certified or a portion thereof under this subsection, he is not entitled to make an application or receive an amount under subsection 5.

Collection  
of amount  
as taxes

(7) An amount paid to an owner under subsection 6 shall be placed upon the collector's roll and may be collected in the same manner as municipal taxes together with interest thereon accruing from the date of payment at the same rate as the interest added by the municipality under section 553 of *The Municipal Act* to taxes due and unpaid, and is until so collected or otherwise paid a charge upon the land liable for payment thereof.

R.S.O. 1970,  
c. 284

Notice by  
treasurer

(8) Upon making a payment to an owner under subsection 6, the treasurer shall forthwith notify in the prescribed form the adjoining owner against whom the award is being enforced that the payment has been made.

Levy of  
amount  
against  
goods and  
chattels

(9) Instead of having the amount certified placed upon the collector's roll, or instead of applying for that amount or a portion thereof under a by-law passed pursuant to subsection 6, the owner entitled to receive the amount may file a copy of the certificate and of the award in respect of which the certificate was made, certified by the clerk in accordance with this Act, with the clerk of the small claims court of the division in which any part of the land affected by the award is situate, and upon being so filed, the amount may be levied against the goods and chattels and land of the adjoining owner in the same manner as the amount of a judgment of a small claims court may be levied under *The Small Claims Courts Act. New.*

R.S.O. 1970,  
c. 439

When work  
may be  
dismantled

**13.—**(1) Notwithstanding subsection 3 of section 11, an owner desiring to enforce an award shall not dismantle work done by the adjoining owner in respect of the fence mentioned in the award except in accordance with this section.

Notice

(2) Where in the opinion of an owner work done by an adjoining owner pursuant to an award made under section 7 in respect of their lands is not in compliance with the description of the fence or the location of the fence as specified in the award, the owner may, by notice served by him on the adjoining owner or occupant of his land, require the adjoining owner to make the work comply with the award.

(3) A notice under subsection 2 shall specify in what Particulars particulars the work done fails to comply with the award and shall be served by an owner in the same manner as a notice to an owner or occupant is served by the clerk under section 4.

(4) If the notice is not obeyed within two weeks after it Fence-viewers to reattend has been served, the owner may cause the fence-viewers to reattend at the premises to view the work and to determine whether or not the work complies with the award.

(5) The provisions of section 4 respecting the convening of Service of notices fence-viewers apply with necessary modifications to the recalling of fence-viewers under subsection 4.

(6) Where the fence-viewers determine under subsection 4 Powers of fence-viewers that the work does not comply with the award, they shall in the prescribed form set out their determination with reasons therefor and shall specify the action to be taken by the adjoining owner to make such work comply, the date by which such action shall commence, and the date by which the work shall be completed.

(7) Where the adjoining owner does not comply with the Where owner does not comply directions given by the fence-viewers under subsection 6, the owner that initiated the proceedings under this section may, by notice to the adjoining owner or the occupant of his land, require the adjoining owner to obey the directions, and the provisions of sections 11 and 12 respecting the enforcement of an award apply with necessary modifications to the enforcement of the directions given by the fence-viewers under subsection 6.

(8) Where the fence-viewers make a determination with Fees directions under subsection 6, they shall specify the fees payable in respect of their services under subsections 4 and 6 and that the fees be paid by the adjoining owner or the other owner or that a specified portion of the fees be paid by each of them.

(9) Section 8 applies with necessary modifications to a Deposit of determination determination with directions made by the fence-viewers under subsection 6. *New.*

**14.**—(1) Where the fence-viewers have attended at premises Where no award, etc., made, fees of fence-viewers pursuant to a notice given under subsection 2 of section 4, subsection 8 of section 11 or subsection 5 or 7 of section 13, and have decided,

- (a) that no award shall be made because they have no jurisdiction to make the award or because the

owners of the adjoining lands have requested that no award be made; or

- (b) that no certificate or determination with directions shall be made,

they shall prepare their decision in the prescribed form giving reasons therefor, and shall specify in the decision that the fees of the fence-viewers in respect of such attendance be paid either by one adjoining owner or by the other or that a specified portion of the fees be paid by each of them.

Deposit  
of decision

(2) Section 8 applies, with necessary modifications, to a decision made under subsection 1. *New.*

Award to be  
a charge on  
land if  
registered

**15.**—(1) The award and a certificate made in respect of the award may be registered in the proper land registry office and when registered are charges upon the land affected by them.

How  
registered

(2) Registration may be by the registration of a duplicate of the award or certificate, as the case may be, or of a copy thereof, verified by an affidavit, together with an affidavit of the execution of the award or certificate. R.S.O. 1970, c. 248, s. 11, *amended.*

Enforcement  
of agreements

**16.** Any agreement in writing in the prescribed form between owners respecting a line fence may be registered and enforced as if it were an award of fence-viewers. R.S.O. 1970, c. 248, s. 15, *amended.*

Fees to  
surveyors  
and witnesses

**17.**—(1) An Ontario land surveyor and a witness are entitled to the same compensation as if subpoenaed in a small claims court.

Payment of  
fence-viewers  
fees

(2) The corporation of the local municipality shall, at the expiration of the time for appeal from an award made under section 7 or after appeal, as the case may be, and, where applicable, upon the depositing of a certificate under subsection 4 of section 12 or subsection 7 of section 13, or of a determination with directions under subsection 9 of section 13, or a decision under section 14, pay to the fence-viewers their fees, and shall, unless the fees or a portion thereof are forthwith repaid by the person adjudged to pay the fees or the portion thereof, place the amount unpaid upon the collector's roll, and the amount may be collected in the same manner as municipal taxes together with interest thereon accruing from the date of payment at the same rate as the interest added by the municipality under section 553 of *The Municipal Act*, to taxes due and unpaid and is until so col-

lected or otherwise paid a charge upon the land liable for payment thereof. R.S.O. 1970, c. 248, s. 13, *amended*.

(3) Where the land of the person adjudged to pay the fees or a portion thereof is not situate within the local municipality, the clerk of the municipality shall, where the land is situate in an adjacent municipality, notify the clerk of the adjacent municipality of the amount owing by such person in respect of the fees or the portion thereof, and the clerk of the adjacent municipality shall place the amount upon the collector's roll for that municipality, and the amount may be collected in the same manner as municipal taxes together with interest thereon accruing from the date of payment at the same rate as the interest added by the municipality under section 553 of *The Municipal Act*, to taxes due and unpaid, and is until so collected or otherwise paid a charge upon the land liable for payment thereof, and when the amount with interest or any part thereof is collected the clerk shall forthwith remit it to the clerk of the municipality that gave the notice under this subsection.

Where land  
in adjacent  
municipality

R.S.O. 1970,  
c. 284

(4) Where the land of the person adjudged to pay the fees or a portion thereof is situate in territory without municipal organization, the amount owing by such person in respect of the fees or the portion thereof may be recovered with interest as a debt due to the municipality from such person. *New*.

Where land in  
unorganized  
territory

**18.**—(1) Where there is an unopened road allowance lying between the lands of two owners and not enclosed by a lawful fence, it is the duty of the fence-viewers, when called upon, to divide the road allowance equally between the owners of the lands, and to require each owner to construct, keep up and maintain a just proportion of fence to mark the division line, but nothing in this section in any way affects or interferes with the rights of the municipality in the road allowance or is deemed to confer any title therein upon such owners or either of them. R.S.O. 1970, c. 248, s. 2 (3), *amended*.

Unopened  
road  
allowance

(2) No person shall initiate proceedings for calling on the fence-viewers to act under subsection 1 without the approval of the council of the municipality in which the road allowance is situate. *New*.

Approval of  
council  
required

**19.**—(1) Where land that was formerly used as part of a line of railway is conveyed in its entire width by the railway company,

Duties of  
owner of  
former  
railway  
right-of-way

(a) to the owner of abutting land, such owner, his heirs, executors and assigns, are responsible for



constructing, keeping up and repairing the fence that marks the lateral boundary between the conveyed lands and the lands of the adjoining owner for a period of ten years from the date of the conveyance and thereafter section 4 applies;

(b) to a person who is not the owner of abutting land, such person, his heirs, executors and assigns, are responsible for constructing, keeping up and repairing the fences that mark the lateral boundaries of such land; or

R.S.O. 1970,  
c. 100

(c) to the Crown in right of Ontario, a Crown agency within the meaning of *The Crown Agency Act* or the corporation of a municipality where the Crown, Crown agency or corporation, as the case may be, is not the owner of abutting land, the Crown, Crown agency or corporation is responsible for constructing, keeping up and repairing the fences that mark the lateral boundaries of such land. R.S.O. 1970, c. 248, s. 3, *amended*.

Interpre-  
tation

(2) For the purpose of clause *c* of subsection 1, "municipality" includes a regional, metropolitan or district municipality and the County of Oxford. *New*.

Certain  
fences  
removable  
on notice

**20.**—(1) The owner of the whole or part of a line fence that forms part of the fence marking the boundary between his land and the land of an adjoining owner shall not take down or remove any part of such fence.

(a) without giving at least six months previous notice of his intention to the owner or occupant of the adjacent land unless the owner or occupant, after demand made upon him in writing by the owner of the fence, refuses to pay therefor the sum determined as provided by section 7; or

(b) if such owner or occupant will pay to the owner of the fence or part thereof such sum as the fence-viewers may award to be paid therefor under section 7.

Other  
provisions  
of Act  
to apply

(2) The provisions of this Act for determining disputes between owners of adjoining lands, the manner of enforcing awards and appeals therefrom and the prescribed forms and all other provisions of this Act, so far as applicable, apply to proceedings under this section. R.S.O. 1970, c. 248, s. 16, *amended*.



**21.**—(1) If any tree is thrown down by accident or otherwise so as to cause damage to a line fence, the owner or occupant of the land on which the tree stood shall forthwith remove the tree and repair the fence. R.S.O. 1970, c. 248, s. 17 (1), *amended*.

Where tree  
thrown across  
line fence

(2) On the neglect or refusal of the owner or occupant of the land on which the tree stood so to do for forty-eight hours after notice in writing to remove the tree, the adjoining land-owner may remove it in the most convenient and inexpensive manner, and may make good the fence so damaged, and may retain the tree to remunerate him for such removal. R.S.O. 1970, c. 248, s. 17 (2), *amended*.

When  
adjoining  
land-owner  
may remove  
tree

(3) A person who repairs a fence under subsection 2 may recover the costs of the work in the same manner as an owner under subsection 3 of section 11 may recover the value of work done by him. *New*.

Recovery  
of cost



(4) For the purpose of such removal, the owner of the tree may enter into and upon the adjoining land doing no unnecessary spoil or waste.

Right of  
entry

(5) All questions arising under this section shall be adjusted by three fence-viewers of the municipality, the decision of any two of whom is binding upon the parties. R.S.O. 1970, c. 248, s. 17 (3, 4).

Fence-viewers  
to decide  
disputes



**22.**—(1) This Act applies to lands owned by a municipality and to lands owned by a local board within the meaning of *The Municipal Affairs Act*, including a conservation authority.

Act applies  
to lands of  
municipality  
or local  
board  
R.S.O. 1970,  
c. 118



(2) For the purposes of this section, "municipality" includes a regional, metropolitan or district municipality and the County of Oxford.

Interpre-  
tation

(3) The council of a municipality or a local board may enter into agreements with owners of land adjoining land owned by the municipality or the local board, as the case may be, for the construction, reconstruction, repair, maintenance and keeping up of line fences to mark the boundary of such lands, and any such agreement when reduced to writing in the prescribed form may be registered and enforced as if it were an agreement between owners under section 16. *New*.

Agreements



**23.**—(1) Except as otherwise provided in subsections 2 and 3, this Act applies so as to bind the Crown in right of Ontario.

Act binds  
Crown

Exception	(2) This Act does not apply to lands of the Crown in right of Ontario that at no time have been disposed of by the Crown in right of Ontario by letters patent, deed or otherwise.
Limitation	(3) Notwithstanding any other provision in this Act, an award made under section 7 in respect of lands vested in the Crown in right of Ontario shall not require the Crown to be responsible for more than one-half of the fence or to pay to the adjoining owner an amount exceeding 50 per cent of the cost of the fence. <i>New.</i>
Act does not apply to lands that constitute public highway	<b>24.</b> Notwithstanding sections 22 and 23, this Act does not apply to any lands that constitute a public highway. <i>New.</i>
Where Act not to apply	<b>25.</b> The provisions of this Act respecting the apportionment of the costs of a line fence and the enforcement thereof do not apply in a municipality where a by-law passed under paragraph 21 of subsection 1 of section 354 of <i>The Municipal Act</i> is in force. <i>New.</i>
R.S.O. 1970, c. 284	
Regulations by Minister	<b>26.</b> The Minister may make regulations prescribing forms for the purposes of this Act and providing for their use. <i>New.</i>
Regulations by Lieutenant Governor in Council	<b>27.</b> The Lieutenant Governor in Council may make regulations to provide for determining how the costs of line fences marking the boundary between lands situate in territory without municipal organization shall be apportioned, and for providing for the manner in which any amount so apportioned shall be recoverable. <i>New.</i>
Inspection of awards, decisions, etc	<b>28.</b> Subsection 1 of section 216 of <i>The Municipal Act</i> applies, with necessary modifications, to an award, certificate, determination, decision, notice or other document that, as a result of proceedings initiated under this Act is in the possession or under the control of the clerk or a person designated by the council under this Act for the purpose of giving notices. <i>New.</i>
R.S.O. 1970, c. 248, repealed	<b>29.</b> <i>The Line Fences Act</i> , being chapter 248 of the Revised Statutes of Ontario, 1970, is repealed.
Commencement	<b>30.</b> This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.
Short title	<b>31.</b> The short title of this Act is <i>The Line Fences Act, 1979.</i>









## BILL 17

---

An Act to revise  
The Line Fences Act

---

*1st Reading*

March 15th, 1979

*2nd Reading*

May 24th, 1979

*3rd Reading*

---

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

---

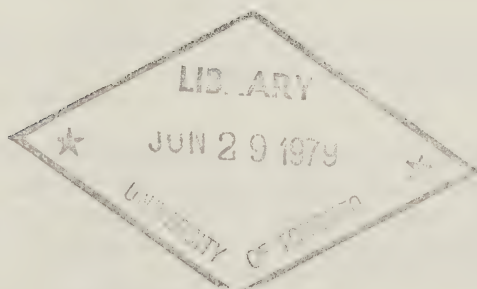
*(Reprinted as amended by the  
Committee of the Whole House)*

**BILL 17**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to revise The Line Fences Act**

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL 17

1979

## An Act to revise The Line Fences Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-  
tation

- (a) “Minister” means the Minister of Intergovernmental Affairs;
- (b) “occupant” means the occupant of adjoining land that is subject or proposed to be made subject to proceedings instituted under section 4;
- (c) “prescribed” means prescribed by the regulations;
- (d) “regulations” means regulations made under this Act;
- (e) “value of the work” and “costs of the work” have the same meaning and include the value of the materials used and the value of the labour performed to complete the work. *New.*

(2) Where, within the meaning of section 4, there is a <sup>Idem</sup> dispute between owners or occupants of lands situate in different local municipalities,

- (a) “fence-viewers” means two fence-viewers of the local municipality in which is situate the land of the owner or occupant notified under section 4, and one fence-viewer of the local municipality in which is situate the land of the person instituting the proceedings under that section;
- (b) “in which the land is situate” or “in which the land lies” means in which is situate the land of the owner or occupant so notified under section 4. R.S.O. 1970, c. 248, s. 1 (2), *amended.*

Idem

(3) Where, within the meaning of section 4, there is a dispute between the owner or occupant of land situate in a local municipality and the owner or occupant of land situate in territory without municipal organization,

(a) "fence-viewers" means three fence-viewers appointed by the local municipality in which the land of the one owner or occupant is situate, and at least one of the fence-viewers shall be resident outside the municipality in the vicinity of the land of the other owner or occupant;

(b) "local municipality in which the land is situate" means the local municipality in which is situate the land of the one owner or occupant. *New.*

Appointment  
of fence-  
viewers

**2.** The council of every local municipality shall, by by-law, appoint such number of fence-viewers as are required to carry out the provisions of this Act and the by-law shall fix the *per diem* remuneration to be paid to the fence-viewers. *New.*

Owner of land  
may construct  
boundary  
fence

**3.** An owner of land may construct and maintain a fence to mark the boundary between his land and adjoining lands. *New.*

Owner may  
request fence-  
viewers to  
view and  
arbitrate

**4.—(1)** Where the owner of any land desires to have a fence constructed to mark the boundary between his land and the land of an adjoining owner, or where such a fence exists, to have it repaired or reconstructed and where he has not entered into a written agreement with the adjoining owner for sharing the costs of the construction, reconstruction, or repair, as the case may be, of such fence, he may notify the clerk of the local municipality in which the land is situate that he desires fence-viewers to view and arbitrate as to what portion of the fence each owner shall construct, reconstruct or repair and maintain and keep up.

Notice by  
clerk

(2) Where the clerk of a municipality is notified under subsection 1, he, or such other person as may be designated by the council for the purpose of giving notices under this section, shall notify in the prescribed form the owner mentioned in subsection 1 and the adjoining owner or the occupant of the land of the adjoining owner that he will on a day named, not less than one week from the service of the notice, cause three fence-viewers of the locality to arbitrate in the premises and he shall notify in the prescribed form the fence-viewers not less than one week before their services are required that they are required to meet to arbitrate in the premises.

(3) A notice under subsection 2 shall be signed by the <sup>Idem</sup> clerk or such other designated person, as the case may be, and shall specify the time, being not more than thirty days from the date of the receipt of the notice under subsection 1, and place of the meeting for the arbitration, and the notice shall be given to a person mentioned in subsection 2 by sending it to him by registered mail at the address where he resides or, in the case of a notice to an owner or occupant, may instead be given by leaving it with him at his place of residence or with some other person, over the age of eighteen years, residing thereat. R.S.O. 1970, c. 248, s. 4, *part, amended.*

**5.** Where an occupant who is not the owner of the land is given a notice under this Act, he shall immediately inform the owner of the notice, and, if he neglects to do so, he is liable for all damage caused to the owner by such neglect. R.S.O. 1970, c. 248, s. 5, *amended.* <sup>Duty and liability of occupants as to notifying owners</sup>

**6.** The fence-viewers shall examine the premises and, if required by either adjoining owner, shall hear evidence and may examine the owners and their witnesses on oath. R.S.O. 1970, c. 248, s. 6, *amended.* <sup>Duties and powers of fence-viewers</sup>

**7.—(1)** The fence-viewers shall make an award in the prescribed form, signed by any two of them, respecting the matters in dispute and the award shall state that a fence shall be constructed and maintained and kept up to mark the boundary between the adjoining lands, or, where such a fence exists, that the fence shall be reconstructed or repaired, and shall be maintained and kept up, and the award shall specify, <sup>Award of fence-viewers</sup>

(a) the location of the fence;

(b) that,

- (i) each adjoining owner shall construct, reconstruct or repair, as the case may be, and maintain and keep up a designated one-half of the fence, or
- (ii) the adjoining owner designated shall construct, reconstruct or repair, as the case may be, and maintain and keep up the fence, and that the other adjoining owner shall, upon being notified by the designated adjoining owner of the costs of the work incurred from time to time, pay to the



designated adjoining owner one-half of the costs incurred,

unless the fence-viewers, in the circumstances of the case, consider an award in the terms of sub-clauses i or ii to be unjust, in which case the fence-viewers may make such award in respect of the construction, reconstruction, repair or maintenance of the fence as they consider appropriate;

- (c) the description of the fence, including the materials to be used in the construction, reconstruction, repair or maintenance and keeping up of the fence;
- (d) the date by which the construction, reconstruction or repairs shall be commenced and the date by which such work shall be completed; and
- (e) the costs of the proceedings and by which of the owners or in what proportion the costs of the proceedings are to be paid. R.S.O. 1970, c. 248, s. 7 (1), *amended*.

Character  
of fence

(2) In making the award, the fence-viewers shall have regard to the suitability of the fence to the needs of each of the adjoining owners or the occupants of their land, as the case may be, the nature of the terrain on which the fence is, or is to be, located, and the nature of the fences in use in the locality and may have regard to any other factors that they consider relevant. R.S.O. 1970, c. 248, s. 7 (2), *amended*.

Where  
by-law  
under  
R.S.O. 1970,  
c. 284  
in force

(3) Where there is a by-law in force in the municipality under *The Municipal Act* prescribing the height and description of lawful fences or otherwise regulating the construction of fences, the description of the fence specified in the award shall conform to the by-law. *New*.

Location  
of fence

(4) Where, from the formation of the ground by reason of streams or other causes, it is, in the opinion of the fence-viewers, impracticable to locate the fence upon the line between the lands of the adjoining owners, they may locate it either wholly or partly on the land of either of the adjoining owners where it seems to be most convenient, but such location shall not in any way affect the title to the land. R.S.O. 1970, c. 248, s. 7 (3), *amended*.

(5) Where the fence-viewers locate a fence wholly or partly on the land of either of the adjoining owners under subsection 4, the fence-viewers may employ an Ontario land surveyor to have the location of the fence described by metes and bounds. R.S.O. 1970, c. 248, s. 7 (4), *amended*. <sup>Employment of surveyor</sup>

(6) Subsections 2, 3 and 4 of section 17 respecting the payment of fees to fence-viewers and for the collection of amounts paid on account thereof by the municipality apply with necessary modifications to fees payable to a land surveyor employed under subsection 5. *New*. <sup>Fees of land surveyor</sup>

8.—(1) The award shall be deposited in the office of the clerk of the local municipality in which the land is situate, and may be proved by a copy certified by the clerk, and a copy of the award certified by the clerk shall forthwith be sent by him by registered mail to the owners and occupants of the adjoining lands to their last known place of residence. R.S.O. 1970, c. 248, s. 8, *amended*. <sup>Deposit of award, etc.</sup>

(2) Where the lands of the adjoining owners are situate in different local municipalities, a clerk under subsection 1 shall, forthwith upon the deposit of an award in his office, forward a copy of it certified by him to the clerk of the other municipality in which part of the lands are situate. *New*. <sup>Where land situate in different municipalities</sup>

9.—(1) An owner dissatisfied with the award may appeal therefrom to a judge of the small claims court for the territorial division in which the land is situate by serving on the owner or occupant of the adjoining land and the fence-viewers, within fifteen days of receiving a copy of the award made under section 7, a notice of appeal in the prescribed form and by filing a copy of each notice together with an affidavit of service of the notice in the prescribed form with the clerk of the court within that period. R.S.O. 1970, c. 248, s. 12 (1), *amended*. <sup>Appeal</sup>

(2) A notice under subsection 1 shall be served by the owner in the same manner as a notice to an owner or occupant is served by the clerk under section 4. *New*. <sup>Service of notice</sup>

(3) Upon the filing of the copies of the notices and the affidavits mentioned in subsection 1, the clerk of the court shall forthwith fix the time and place for the hearing of the appeal, and notice of the time and place of the appeal shall be served on each person served with a notice under subsection 1 and on the owner giving notice under that subsection and a notice under this subsection shall be served in the same manner as a notice of trial is served on a party to a suit under *The Small Claims Courts Act*. R.S.O. 1970, c. 248, s. 12 (4), *amended*. <sup>Notice of hearing</sup> <sup>R.S.O. 1970, c. 439</sup>

Powers of  
judge

(4) The judge shall hear and determine the appeal and may set aside, alter or affirm the award, or correct any error therein, and may examine the parties and their witnesses on oath, and may inspect the premises and may order payment of costs by either party and fix the amount of the costs.

Decision  
of judge  
to be final

(5) The decision of the judge is final and the award, as altered or affirmed, shall be dealt with in all respects as it would have been if it had not been appealed from. R.S.O. 1970, c. 248, s. 12 (5, 6).

Procedure

(6) The practice and procedure on the appeal, including the fees payable for subpoenas and the conduct money of witnesses, shall be the same, as nearly as may be, as in the case of a suit in the small claims court, but the judge may at any time give special direction as to the conduct of the hearing so that he may properly and fully inform himself of all relevant facts and may at any time order such sum of money to be paid by the appellant to the clerk as will be a sufficient indemnity against the costs of the appeal. R.S.O. 1970, c. 248, s. 12 (7), *amended*.

Where  
land in  
different  
court  
divisions

(7) Notwithstanding subsections 1 and 3, where the award affects land in two or more territorial divisions, the appeal may be to the judge of the small claims court for the territorial division in which any part of the land is situate and in such case the documents mentioned in subsection 1 shall be filed with the clerk of the court in which the appeal is to be heard. R.S.O. 1970, c. 248, s. 12 (8), *amended*.

Judge's  
expenses

**10.**—(1) If the judge of the small claims court inspects the premises or hears the appeal at a place other than the place where proceedings in that court are usually conducted, he is entitled to be paid the actual expenses incurred by him and, in the order setting aside, altering or affirming the award, shall fix the amount of such expenses and name the person by whom the amount is to be paid.

Municipality  
to pay  
expenses  
and collect  
amount

(2) The judge shall be paid by the corporation of the municipality the amount so fixed, and it shall be collected in the same manner as is provided in respect of the fence-viewer's fees. R.S.O. 1970, c. 248, s. 14, *amended*.

Owner may  
require  
award to be  
obeyed

**11.**—(1) Where the award specifies that a portion or all of the fence shall be repaired, constructed, reconstructed, maintained or kept up by one adjoining owner and that adjoining owner fails to obey the award, the other adjoining

owner may, by notice, served by him on the first adjoining owner or the occupant of his land, require the first adjoining owner to obey the award. R.S.O. 1970, c. 248, s. 10 (1), *part, amended*.

(2) A notice served by an adjoining owner under subsection 1 shall be served in the same manner as a notice to an owner or occupant is served by the clerk under section 4. *New.*

(3) If the notice is not obeyed within two weeks after it has been served, the owner desiring to enforce the award may do or complete the work that the award directs and may immediately institute proceedings to recover the value of the work done or completed and the costs of the proceedings from the owner of the adjoining land. R.S.O. 1970, c. 248, s. 10 (1), *part, amended*.

(4) An owner, or any person acting on his behalf, in doing or completing work pursuant to an award under section 7 or under subsection 3 or under subsection 7 of section 13, may enter on the property of the adjoining owner to the extent that it is necessary to do or complete the work, but in making such entry or doing or completing such work shall do no unnecessary spoil or waste. *New.*

(5) No person shall obstruct or threaten to obstruct a person entering on to property or doing or completing work in accordance with subsection 4 and every person who contravenes this subsection is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. *New.*

(6) Where the award specifies that one adjoining owner shall pay to the designated adjoining owner a portion of the costs of the work under subclause ii of clause b of subsection 1 of section 7, the designated adjoining owner may notify the other adjoining owner or the occupant of his land of the amount owing in accordance with the award in the same manner as an owner may give notice under subsection 2, and, where such amount is not paid within twenty-eight days following the day on which the notice is given, the designated adjoining owner may institute proceedings to recover the amount and the costs of the proceedings from the other adjoining owner.

(7) An owner desiring to institute proceedings under subsection 3 or 6 shall notify the clerk of the local municipality in which the land is situate that he desires the three fence-viewers who made the award to reattend at the premises and certify,



- (a) the default of the adjoining owner; and
- (b) the value of the work done by the owner which according to the award ought to have been done by the adjoining owner or the portion of the costs of the work done which ought to have been paid by the adjoining owner, as the case may be.

Notice by  
clerk

(8) Where the clerk of a municipality is notified by an owner under subsection 7, he, or such other person as may be designated by the council for the purpose of giving notices under this section, shall forthwith notify in the prescribed form that owner and the owner or occupant of the adjoining land that he will, on a day named, not less than one week from the service of the notice, cause the fence-viewers to reattend at the premises and he shall also notify in the prescribed form the fence-viewers not less than one week before their services are required.

Idem

(9) The notices in each case shall be signed by the clerk or such other designated person, as the case may be, and shall specify the time and place of the reconvening of the fence-viewers, and the notices shall be served in the same manner as a notice served under subsection 3 of section 4.

Notice to  
another  
fence-viewer  
to attend

(10) Where an owner notifies the clerk under subsection 7, and for any reason any of the three fence-viewers who made the award is unable to reattend at the premises, the clerk shall notify another fence-viewer of the municipality to attend in his place. *New.*

Duties of  
fence-viewers

**12.—**(1) The fence-viewers, upon receiving a notice served under subsection 8 of section 11, or upon being notified under subsection 10 of that section, shall attend in accordance with such notice, and if satisfied that the adjoining owner or the occupant of his land was duly notified under subsection 1 or 6, as the case may be, of section 11 and has failed to obey the award, the fence-viewers shall,

- (a) where the adjoining owner or the occupant of his land was notified under subsection 1 of section 11, determine the value of the work done by the owner desiring to enforce the award which is attributable to the adjoining owner and shall prepare a certificate in the prescribed form certifying the default of the adjoining owner and certifying the value of the said work; or
- (b) where the adjoining owner or the occupant of his land was notified under subsection 6 of section 11, determine the value of the work done by the owner

desiring to enforce the award and the portion of that value payable by the adjoining owner and shall prepare a certificate in the prescribed form certifying the default of the adjoining owner and the amount payable by him as his share of the costs of the work.

(2) The fence-viewers shall specify in a certificate under subsection 1 the costs of the proceedings described in that subsection and shall specify either that the adjoining owner or that the other owner pay the costs, or that each of them pay a specified portion of the costs. Costs

(3) The fence-viewers shall, in the certificate, certify the amount payable by the adjoining owner as his share of the costs of the proceedings described in subsection 1 and of the proceedings under section 4, less the portion of that amount payable as fees to the fence-viewers or fees to a land surveyor employed under subsection 5 of section 7, and the total amount certified pursuant to this subsection and subsection 1 shall become payable to the owner desiring to enforce the award. Idem

(4) Upon preparing a certificate under subsection 1, the fence-viewers shall forthwith deposit the certificate with the clerk of the local municipality within which the land is situate and the provisions of subsections 1 and 2 of section 8 respecting an award apply with necessary modifications to the certificate. *New.* Deposit of certificate

(5) The clerk of the local municipality in which the land of the adjoining owner is situate shall, upon receiving a certificate prepared under subsection 1 and the award in respect of which the certificate was made, or copies thereof certified by the clerk in accordance with this Act, and upon application in writing by the owner entitled to receive the amount certified, have the total amount certified placed upon the collector's roll and the amount may be collected in the same manner as taxes, together with interest thereon accruing from the date the application was made at the same rate as interest added by the municipality under section 553 of *The Municipal Act* to taxes due and unpaid, and is until so collected or otherwise paid a charge upon the land liable for payment thereof and when collected shall forthwith be paid over to the owner entitled thereto. R.S.O. 1970, c. 284

R.S.O. 1970, c. 248, s. 10 (2), amended.

(6) Notwithstanding subsection 5, the council of a local municipality may, by by-law, provide that where a certificate and an award mentioned in that subsection and made in respect of land situate within the municipality, or copies Payment by treasurer

thereof certified by a clerk in accordance with this Act, are deposited with the clerk of the municipality, the treasurer of the municipality may, upon written application therefor, pay to the owner entitled to receive the amount certified, the amount so certified or a portion thereof, where he is satisfied that the owner is entitled thereto, and where an owner has received the amount certified or a portion thereof under this subsection, he is not entitled to make an application or receive an amount under subsection 5.

Collection  
of amount  
as taxes

R.S.O. 1970,  
c. 284

(7) An amount paid to an owner under subsection 6 shall be placed upon the collector's roll and may be collected in the same manner as municipal taxes together with interest thereon accruing from the date of payment at the same rate as the interest added by the municipality under section 553 of *The Municipal Act* to taxes due and unpaid, and is until so collected or otherwise paid a charge upon the land liable for payment thereof.

Notice by  
treasurer

(8) Upon making a payment to an owner under subsection 6, the treasurer shall forthwith notify in the prescribed form the adjoining owner against whom the award is being enforced that the payment has been made.

Levy of  
amount  
against  
goods and  
chattels

R.S.O. 1970,  
c. 439

(9) Instead of having the amount certified placed upon the collector's roll, or instead of applying for that amount or a portion thereof under a by-law passed pursuant to subsection 6, the owner entitled to receive the amount may file a copy of the certificate and of the award in respect of which the certificate was made, certified by the clerk in accordance with this Act, with the clerk of the small claims court of the division in which any part of the land affected by the award is situate, and upon being so filed, the amount may be levied against the goods and chattels and land of the adjoining owner in the same manner as the amount of a judgment of a small claims court may be levied under *The Small Claims Courts Act*. *New.*

When work  
may be  
dismantled

**13.—**(1) Notwithstanding subsection 3 of section 11, an owner desiring to enforce an award shall not dismantle work done by the adjoining owner in respect of the fence mentioned in the award except in accordance with this section.

Notice

(2) Where in the opinion of an owner work done by an adjoining owner pursuant to an award made under section 7 in respect of their lands is not in compliance with the description of the fence or the location of the fence as specified in the award, the owner may, by notice served by him on the adjoining owner or occupant of his land, require the adjoining owner to make the work comply with the award.

(3) A notice under subsection 2 shall specify in what <sup>Particulars</sup> particulars the work done fails to comply with the award and shall be served by an owner in the same manner as a notice to an owner or occupant is served by the clerk under section 4.

(4) If the notice is not obeyed within two weeks after it has been served, the owner may cause the fence-viewers to <sup>Fence-viewers to reattend</sup> reattend at the premises to view the work and to determine whether or not the work complies with the award.

(5) The provisions of section 4 respecting the convening of <sup>Service of notices</sup> fence-viewers apply with necessary modifications to the recalling of fence-viewers under subsection 4.

(6) Where the fence-viewers determine under subsection 4 <sup>Powers of fence-viewers</sup> that the work does not comply with the award, they shall in the prescribed form set out their determination with reasons therefor and shall specify the action to be taken by the adjoining owner to make such work comply, the date by which such action shall commence, and the date by which the work shall be completed.

(7) Where the adjoining owner does not comply with the <sup>Where owner does not comply</sup> directions given by the fence-viewers under subsection 6, the owner that initiated the proceedings under this section may, by notice to the adjoining owner or the occupant of his land, require the adjoining owner to obey the directions, and the provisions of sections 11 and 12 respecting the enforcement of an award apply with necessary modifications to the enforcement of the directions given by the fence-viewers under subsection 6.

(8) Where the fence-viewers make a determination with <sup>Fees</sup> directions under subsection 6, they shall specify the fees payable in respect of their services under subsections 4 and 6 and that the fees be paid by the adjoining owner or the other owner or that a specified portion of the fees be paid by each of them.

(9) Section 8 applies with necessary modifications to a <sup>Deposit of determination</sup> determination with directions made by the fence-viewers under subsection 6. *New.*

**14.**—(1) Where the fence-viewers have attended at premises <sup>Where no award, etc., made, fees of fence-viewers</sup> pursuant to a notice given under subsection 2 of section 4, subsection 8 of section 11 or subsection 5 or 7 of section 13, and have decided,

(a) that no award shall be made because they have no jurisdiction to make the award or because the



owners of the adjoining lands have requested that no award be made; or

- (b) that no certificate or determination with directions shall be made,

they shall prepare their decision in the prescribed form giving reasons therefor, and shall specify in the decision that the fees of the fence-viewers in respect of such attendance be paid either by one adjoining owner or by the other or that a specified portion of the fees be paid by each of them.

Deposit  
of decision

(2) Section 8 applies, with necessary modifications, to a decision made under subsection 1. *New.*

Award to be  
a charge on  
land if  
registered

**15.**—(1) The award and a certificate made in respect of the award may be registered in the proper land registry office and when registered are charges upon the land affected by them.

How  
registered

(2) Registration may be by the registration of a duplicate of the award or certificate, as the case may be, or of a copy thereof, verified by an affidavit, together with an affidavit of the execution of the award or certificate. R.S.O. 1970, c. 248, s. 11, *amended.*

Enforcement  
of agreements

**16.** Any agreement in writing in the prescribed form between owners respecting a line fence may be registered and enforced as if it were an award of fence-viewers. R.S.O. 1970, c. 248, s. 15, *amended.*

Fees to  
surveyors  
and witnesses

**17.**—(1) An Ontario land surveyor and a witness are entitled to the same compensation as if subpoenaed in a small claims court.

Payment of  
fence-viewers  
fees

(2) The corporation of the local municipality shall, at the expiration of the time for appeal from an award made under section 7 or after appeal, as the case may be, and, where applicable, upon the depositing of a certificate under subsection 4 of section 12 or subsection 7 of section 13, or of a determination with directions under subsection 9 of section 13, or a decision under section 14, pay to the fence-viewers their fees, and shall, unless the fees or a portion thereof are forthwith repaid by the person adjudged to pay the fees or the portion thereof, place the amount unpaid upon the collector's roll, and the amount may be collected in the same manner as municipal taxes together with interest thereon accruing from the date of payment at the same rate as the interest added by the municipality under section 553 of *The Municipal Act*, to taxes due and unpaid and is until so col-

lected or otherwise paid a charge upon the land liable for payment thereof. R.S.O. 1970, c. 248, s. 13, *amended*.

(3) Where the land of the person adjudged to pay the fees or a portion thereof is not situate within the local municipality, the clerk of the municipality shall, where the land is situate in an adjacent municipality, notify the clerk of the adjacent municipality of the amount owing by such person in respect of the fees or the portion thereof, and the clerk of the adjacent municipality shall place the amount upon the collector's roll for that municipality, and the amount may be collected in the same manner as municipal taxes together with interest thereon accruing from the date of payment at the same rate as the interest added by the municipality under section 553 of *The Municipal Act*, to taxes due and unpaid, and is until so collected or otherwise paid a charge upon the land liable for payment thereof, and when the amount with interest or any part thereof is collected the clerk shall forthwith remit it to the clerk of the municipality that gave the notice under this subsection.

Where land  
in adjacent  
municipality

R.S.O. 1970,  
c. 284

(4) Where the land of the person adjudged to pay the fees or a portion thereof is situate in territory without municipal organization, the amount owing by such person in respect of the fees or the portion thereof may be recovered with interest as a debt due to the municipality from such person. *New*.

Where land in  
unorganized  
territory

**18.**—(1) Where there is an unopened road allowance lying between the lands of two owners and not enclosed by a lawful fence, it is the duty of the fence-viewers, when called upon, to divide the road allowance equally between the owners of the lands, and to require each owner to construct, keep up and maintain a just proportion of fence to mark the division line, but nothing in this section in any way affects or interferes with the rights of the municipality in the road allowance or is deemed to confer any title therein upon such owners or either of them. R.S.O. 1970, c. 248, s. 2 (3), *amended*.

Unopened  
road  
allowance

(2) No person shall initiate proceedings for calling on the fence-viewers to act under subsection 1 without the approval of the council of the municipality in which the road allowance is situate. *New*.

Approval of  
council  
required

**19.**—(1) Where land that was formerly used as part of a line of railway is conveyed in its entire width by the railway company,

Duties of  
owner of  
former  
railway  
right-of-way

(a) to the owner of abutting land, such owner, his heirs, executors and assigns, are responsible for

constructing, keeping up and repairing the fence that marks the lateral boundary between the conveyed lands and the lands of the adjoining owner for a period of ten years from the date of the conveyance and thereafter section 4 applies;

(b) to a person who is not the owner of abutting land, such person, his heirs, executors and assigns, are responsible for constructing, keeping up and repairing the fences that mark the lateral boundaries of such land; or

R.S.O. 1970,  
c. 100

(c) to the Crown in right of Ontario, a Crown agency within the meaning of *The Crown Agency Act* or the corporation of a municipality where the Crown, Crown agency or corporation, as the case may be, is not the owner of abutting land, the Crown, Crown agency or corporation is responsible for constructing, keeping up and repairing the fences that mark the lateral boundaries of such land. R.S.O. 1970, c. 248, s. 3, *amended*.

Interpre-  
tation

(2) For the purpose of clause *c* of subsection 1, "municipality" includes a regional, metropolitan or district municipality and the County of Oxford. *New*.

Certain  
fences  
removable  
on notice

**20.—**(1) The owner of the whole or part of a line fence that forms part of the fence marking the boundary between his land and the land of an adjoining owner shall not take down or remove any part of such fence.

(a) without giving at least six months previous notice of his intention to the owner or occupant of the adjacent land unless the owner or occupant, after demand made upon him in writing by the owner of the fence, refuses to pay therefor the sum determined as provided by section 7; or

(b) if such owner or occupant will pay to the owner of the fence or part thereof such sum as the fence-viewers may award to be paid therefor under section 7.

Other  
provisions  
of Act  
to apply

(2) The provisions of this Act for determining disputes between owners of adjoining lands, the manner of enforcing awards and appeals therefrom and the prescribed forms and all other provisions of this Act, so far as applicable, apply to proceedings under this section. R.S.O. 1970, c. 248, s. 16, *amended*.

**21.—**(1) If any tree is thrown down by accident or otherwise so as to cause damage to a line fence, the owner or occupant of the land on which the tree stood shall forthwith remove the tree and repair the fence. R.S.O. 1970, c. 248, s. 17 (1), *amended*. Where tree thrown across line fence

(2) On the neglect or refusal of the owner or occupant of the land on which the tree stood so to do for forty-eight hours after notice in writing to remove the tree, the adjoining land-owner may remove it in the most convenient and inexpensive manner, and may make good the fence so damaged, and may retain the tree to remunerate him for such removal. R.S.O. 1970, c. 248, s. 17 (2), *amended*. When adjoining land-owner may remove tree

(3) A person who repairs a fence under subsection 2 may recover the costs of the work in the same manner as an owner under subsection 3 of section 11 may recover the value of work done by him. *New*. Recovery of cost

(4) For the purpose of such removal, the owner of the tree may enter into and upon the adjoining land doing no unnecessary spoil or waste. Right of entry

(5) All questions arising under this section shall be adjusted by three fence-viewers of the municipality, the decision of any two of whom is binding upon the parties. R.S.O. 1970, c. 248, s. 17 (3, 4). Fence-viewers to decide disputes

**22.—**(1) This Act applies to lands owned by a municipality and to lands owned by a local board within the meaning of *The Municipal Affairs Act*, including a conservation authority. Act applies to lands of municipality or local board  
R.S.O. 1970, c. 118

(2) For the purposes of this section, "municipality" includes a regional, metropolitan or district municipality and the County of Oxford. Interpretation

(3) The council of a municipality or a local board may enter into agreements with owners of land adjoining land owned by the municipality or the local board, as the case may be, for the construction, reconstruction, repair, maintenance and keeping up of line fences to mark the boundary of such lands, and any such agreement when reduced to writing in the prescribed form may be registered and enforced as if it were an agreement between owners under section 16. *New*. Agreements

**23.—**(1) Except as otherwise provided in subsections 2 and 3, this Act applies so as to bind the Crown in right of Ontario. Act binds Crown



Exception	(2) This Act does not apply to lands of the Crown in right of Ontario that at no time have been disposed of by the Crown in right of Ontario by letters patent, deed or otherwise.
Limitation	(3) Notwithstanding any other provision in this Act, an award made under section 7 in respect of lands vested in the Crown in right of Ontario shall not require the Crown to be responsible for more than one-half of the fence or to pay to the adjoining owner an amount exceeding 50 per cent of the cost of the fence. <i>New.</i>
Act does not apply to lands that constitute public highway	<b>24.</b> Notwithstanding sections 22 and 23, this Act does not apply to any lands that constitute a public highway. <i>New.</i>
Where Act not to apply	<b>25.</b> The provisions of this Act respecting the apportionment of the costs of a line fence and the enforcement thereof do not apply in a municipality where a by-law passed under paragraph 21 of subsection 1 of section 354 of <i>The Municipal Act</i> is in force. <i>New.</i>
R.S.O. 1970, c. 284	
Regulations by Minister	<b>26.</b> The Minister may make regulations prescribing forms for the purposes of this Act and providing for their use. <i>New.</i>
Regulations by Lieutenant Governor in Council	<b>27.</b> The Lieutenant Governor in Council may make regulations to provide for determining how the costs of line fences marking the boundary between lands situate in territory without municipal organization shall be apportioned, and for providing for the manner in which any amount so apportioned shall be recoverable. <i>New.</i>
Inspection of awards, decisions, etc.	<b>28.</b> Subsection 1 of section 216 of <i>The Municipal Act</i> applies, with necessary modifications, to an award, certificate, determination, decision, notice or other document that, as a result of proceedings initiated under this Act is in the possession or under the control of the clerk or a person designated by the council under this Act for the purpose of giving notices. <i>New.</i>
R.S.O. 1970, c. 248, repealed	<b>29.</b> <i>The Line Fences Act</i> , being chapter 248 of the Revised Statutes of Ontario, 1970, is repealed.
Commencement	<b>30.</b> This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.
Short title	<b>31.</b> The short title of this Act is <i>The Line Fences Act, 1979.</i>



An Act to revise  
The Line Fences Act

---

*1st Reading*

March 15th, 1979

*2nd Reading*

May 24th, 1979

*3rd Reading*

June 14th, 1979

---

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

---

B20  
XB  
-B 56

3  
17 **BILL 18**

Government  
Publications  
**Government Bill**

3RD SESSION, 31ST LEGISLATURE, <sup>7</sup>ONTARIO  
28 ELIZABETH II, 1979

*Legislative Assembly*

**An Act to amend  
The Ontario Unconditional Grants Act, 1975**

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs





## EXPLANATORY NOTES

SECTION 1.—Subsection 1. Subsection 5 of section 7 of the Act as proposed to be re-enacted is set out below showing underlined the words that have been added:

- (5) *Notwithstanding subsection 2, except where there has been a different assessment generally of real property in an area municipality under section 86 of The Assessment Act, the net regional levy and the net lower tier levy charged against the whole rateable property of an area municipality shall be apportioned among the merged areas of such area municipality in the proportion that the total equalized assessment of each merged area bears to the total equalized assessment of the area municipality both according to the last revised assessment roll as equalized by the Ministry of Revenue.*

The effect is that where in an area municipality there has been a different assessment generally under section 86 of *The Assessment Act* (that is, to make assessment of similar real property equitable one with the other) the net regional levy and the net lower tier levy will not require to be apportioned among the merged areas of the area municipality in the manner set out in the subsection.

Subsection 2. The new subsection 5a will override the provision common to the various Regional Acts that provides for apportioning an area municipality levy among its merged areas in the proportion that the equalized assessment of the merged area bears to the total equalized assessment of the area municipality.

SECTION 2. Section 9 of the Act is set out below:

9. *In each year there shall be paid a resource equalization grant to each lower tier municipality whose equalized assessment per capita in the preceding year is below \$10,650, or such other amount as may be prescribed, in an amount based, in the manner prescribed, on the proportion that 60 per cent of such deficiency of equalized assessment per capita bears to \$10,650 as applied to the net levy of the lower tier municipality.*

BILL 18

1979

## An Act to amend The Ontario Unconditional Grants Act, 1975

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 5 of section 7 of *The Ontario Unconditional Grants Act, 1975*, being chapter 7, is repealed and the following substituted therefor: s. 7 (5),  
re-enacted

(5) Notwithstanding subsection 2, except where there has been a different assessment generally of real property in an area municipality under section 86 of *The Assessment Act*, the net regional levy and the net lower tier levy charged against the whole rateable property of an area municipality shall be apportioned among the merged areas of such area municipality in the proportion that the total equalized assessment of each merged area bears to the total equalized assessment of the area municipality both according to the last revised assessment roll as equalized by the Ministry of Revenue. Apportionment  
among merged  
areas  
R.S.O. 1970,  
c. 32

- (2) The said section 7, as amended by the Statutes of Ontario, 1977, chapter 7, section 4, is further amended by adding thereto the following subsection: s. 7,  
amended

(5a) Notwithstanding the provisions of any Act establishing a regional municipality, where there has been a different assessment generally of real property in an area municipality under section 86 of *The Assessment Act*, the rates levied by such area municipality shall be levied in accordance with subsection 2. Levy by  
area  
municipality  
where different  
assessment  
generally under  
R.S.O. 1970,  
c. 32, s. 86

2. Where the Minister is of the opinion that property taxes in a municipality have been or may be unduly high because of the equalization factor used in determining a resource equalization grant under section 9 of *The Ontario Unconditional Grants Act, 1975*, the Minister may, in 1979, by order, make a grant or a Grant or  
loan by  
Minister in  
1979  
1975, c. 7

loan to the municipality on such terms and conditions as the Minister considers necessary in the circumstances.

Commence-  
ment

**3.** This Act comes into force on the day it receives Royal Assent.

Short title

**4.** The short title of this Act is *The Ontario Unconditional Grants Amendment Act, 1979*.

Resource equalization grants to a municipality under section 9 are based on its assessment as equalized by the Ministry of Revenue under section 71 of *The Assessment Act*. That section has been inoperative for the years 1971 to 1978 by reason of section 96 (2) of *The Assessment Act*. Section 2 of the Bill will permit the Minister to make, in 1979, a grant or loan to a municipality adversely affected in the determination of the amount of its resource equalization grant based on its existing equalization factor. Commencing in 1979, section 71 of *The Assessment Act* again becomes operative and in each year the Ministry of Revenue will again determine the equalized assessment and the equalization factor of each municipality.





---

# BILL 18

---

An Act to amend  
The Ontario Unconditional  
Grants Act, 1975

---

*1st Reading*

March 15th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

---

*(Government Bill)*

---

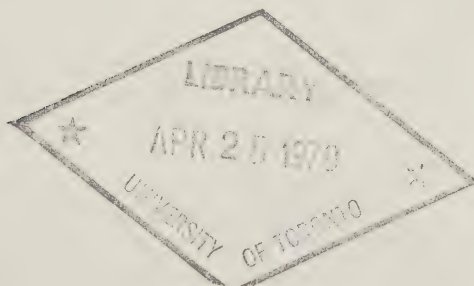
**BILL 18**

3RD SESSION, 31ST LEGISLATURE, <sup>1</sup>ONTARIO  
28 ELIZABETH II, 1979 <sup>2</sup>

*Legislative Assembly*

**An Act to amend  
The Ontario Unconditional Grants Act, 1975**

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO





BILL 18

1979

## An Act to amend The Ontario Unconditional Grants Act, 1975

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 5 of section 7 of *The Ontario Unconditional Grants Act, 1975*, being chapter 7, is repealed and the following substituted therefor: s. 7 (5),  
re-enacted

(5) Notwithstanding subsection 2, except where there has been a different assessment generally of real property in an area municipality under section 86 of *The Assessment Act*, the net regional levy and the net lower tier levy charged against the whole rateable property of an area municipality shall be apportioned among the merged areas of such area municipality in the proportion that the total equalized assessment of each merged area bears to the total equalized assessment of the area municipality both according to the last revised assessment roll as equalized by the Ministry of Revenue. Apportionment  
among merged  
areas  
R.S.O. 1970,  
c. 32

- (2) The said section 7, as amended by the Statutes of Ontario, 1977, chapter 7, section 4, is further amended by adding thereto the following subsection: s. 7,  
amended

(5a) Notwithstanding the provisions of any Act establishing a regional municipality, where there has been a different assessment generally of real property in an area municipality under section 86 of *The Assessment Act*, the rates levied by such area municipality shall be levied in accordance with subsection 2. Levy by  
area  
municipality  
where different  
assessment  
generally under  
R.S.O. 1970,  
c. 32, s. 86

2. Where the Minister is of the opinion that property taxes in a municipality have been or may be unduly high because of the equalization factor used in determining a resource equalization grant under section 9 of *The Ontario Unconditional Grants Act, 1975*, the Minister may, in 1979, by order, make a grant or a Grant or  
loan by  
Minister in  
1979  
1975, c. 7

loan to the municipality on such terms and conditions as the Minister considers necessary in the circumstances.

Commence-  
ment

**3.** This Act comes into force on the day it receives Royal Assent.

Short title

**4.** The short title of this Act is *The Ontario Unconditional Grants Amendment Act, 1979*.







## BILL 18

---

An Act to amend  
The Ontario Unconditional  
Grants Act, 1975

---

*1st Reading*

March 15th, 1979

*2nd Reading*

April 10th, 1979

*3rd Reading*

April 10th, 1979

---

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

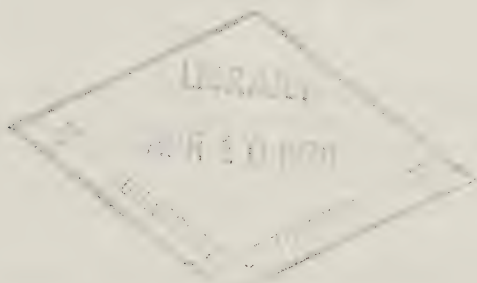
---

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

*Legislative Assembly*

**An Act to amalgamate the  
Ministry of Colleges and Universities  
and the Ministry of Education**

THE HON. B. STEPHENSON  
Minister of Education





#### EXPLANATORY NOTE

The Bill provides for the amalgamation of the Ministry of Education and the Ministry of Colleges and Universities.

BILL 19

1979

**An Act to amalgamate the  
Ministry of Colleges and Universities  
and the Ministry of Education**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** In this Act,

Interpre-  
tation

- (a) "Deputy Minister" means the Deputy Minister of Education;
- (b) "Minister" means the Minister of Education;
- (c) "Ministry" means the Ministry of Education.

**2.**—(1) The Ministries of the public service known as the Ministry of Colleges and Universities and the Ministry of Education are amalgamated and continued as one ministry to be known as the Ministry of Education.

Ministries  
continued  
as  
Ministry

(2) The Minister shall preside over and have charge of the Ministry and is responsible for the administration of this Act, the Acts set out in the Schedule and such other Acts of the Legislature as are assigned to him by the provisions thereof or by the Lieutenant Governor in Council.

Duties of  
Minister

(3) The Lieutenant Governor in Council may, by order, amend the Schedule.

Amendments  
to  
Schedule

**3.**—(1) The Lieutenant Governor in Council shall appoint a Deputy Minister of the Ministry who shall be deputy head of the Ministry, and who, under the direction of the Minister, shall perform such duties as the Minister may assign or delegate to him.

Deputy  
Minister

Staff  
R.S.O. 1970,  
c. 386

(2) Such officers, clerks and servants may be appointed under *The Public Service Act* as are deemed necessary from time to time for the proper conduct of the business of the Ministry.

Delegation  
of powers  
and duties  
of  
Minister

(3) Any power or duty conferred on the Minister by this or any other Act may be delegated by him in writing, subject to such limitations, conditions and requirements as the Minister may set out in the delegation, to the Deputy Minister or to any officer of the Ministry who may act for him in his place and stead, and when the Deputy Minister or such other officer acts in the place and stead of the Minister, it shall be presumed conclusively that he acted in accordance with such delegation.

Effect of  
R.S.O. 1970,  
c. 153

(4) Notwithstanding *The Executive Council Act*, a contract or an agreement made by a person empowered to do so under subsection 2 has the same effect as if made and signed by the Minister.

Annual  
Report

4. The Minister shall, after the close of each fiscal year, submit to the Lieutenant Governor in Council a report upon the affairs of the Ministry for the immediately preceding fiscal year and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Protection  
from  
personal  
liability

5.—(1) No action or other proceeding for damages shall be instituted against the Deputy Minister, or any officer or employee of the Ministry, or anyone acting under his authority for any act done in good faith in the execution or intended execution of his duty, or for any alleged neglect or default in the execution in good faith of his duty.

Idem  
R.S.O. 1970,  
c. 365

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section of *The Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection 1 to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted.

References  
to Minister  
and  
Deputy  
Minister,  
etc.

6. A reference to the Minister or Deputy Minister of University Affairs or to the Minister or Deputy Minister of Colleges and Universities in any Act, regulation or order in council shall be deemed to be a reference to the Minister or Deputy Minister of Education, and a reference to the Department of University Affairs, the Department of Colleges and Universities or the Ministry of Colleges and Universities in any Act, regulation or order in council shall be deemed to be a reference to the Ministry of Education.

- 7.—(1) The title to *The Ministry of Colleges and Universities Act*, 1971, c. 66, 1971, being chapter 66, is repealed and the following title substituted therefor: re-enacted

The Colleges and Universities Act, 1971

- (2) Clauses *a* and *b* of section 1 of the said Act, as re-enacted 1971, c. 66, by the Statutes of Ontario, 1972, chapter 1, section 12, s. 1 (*a*, *b*), are repealed and the following substituted therefor: re-enacted

(*a*) "Minister" means the Minister of Education;

(*b*) "Ministry" means the Ministry of Education.

- (3) Section 2 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 12, is repealed. 1971, c. 66, s. 2, repealed

- (4) Subsections 1 and 2 of section 3 of the said Act are repealed. 1971, c. 66, s. 3 (1, 2), repealed

- (5) Section 4 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 12, is repealed. 1971, c. 66, s. 4, repealed

- (6) Section 6*b* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 1, section 12, and renumbered by 1972, chapter 114, section 2, is repealed. 1971, c. 66, s. 6*b*, repealed

- (7) Section 10 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 12, is repealed and the following substituted therefor: 1971, c. 66, s. 10, re-enacted

10. This Act may be cited as *The Colleges and Universities Act*, 1971.

8. Sections 2 and 3 of *The Education Act*, 1974, being chapter 109, are repealed. 1974, c. 109, ss. 2, 3, repealed

9. This Act comes into force on the 1st day of April, 1979. Commence-  
ment

10. The short title of this Act is *The Ministry of Education Act*, 1979. Short title

## SCHEDULE

- The Apprenticeship and Tradesmen's Qualification Act*  
*The Colleges and Universities Act, 1971*  
*The Colleges Collective Bargaining Act, 1975*  
*The Education Act, 1974*  
*The Essex County French-language Secondary School Act, 1977*  
*The Lakehead University Act, 1965*  
*The Lake Superior Board of Education Act, 1976*  
*The Ontario College of Art Act, 1968-69*  
*The Ontario Institute for Studies in Education Act*  
*The Ontario School Trustees' Council Act, 1978*  
*The Osgoode Hall Law School Scholarships Act, 1968-69*  
*The Private Vocational Schools Act, 1974*  
*The Provincial Schools Negotiations Act, 1975*  
*The Ryerson Polytechnical Institute Act, 1977*  
*The School Boards and Teachers Collective Negotiations Act, 1975*  
*The School Trust Conveyances Act*  
*The Sunnybrook Hospital Act, 1966*  
*The Teachers' Superannuation Act*  
*The Teaching Profession Act*  
*The University of Guelph Act, 1964*  
*The University of Ottawa Act, 1965*  
*The University of Toronto Act, 1971*  
*The Wilfrid Laurier University Act, 1973*  
*The York University Act, 1965*



An Act to amalgamate the Ministry of  
Colleges and Universities and the Ministry  
of Education

*1st Reading*

March 15th, 1979

*2nd Reading*

*3rd Reading*

THE HON. B. STEPHENSON  
Minister of Education

*(Government Bill)*

**BILL 20**

**Government Bill**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend The Residential Premises Rent Review  
Act, 1975 (2nd Session)**

THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTE

The Bill postpones the repeal of the Act for three months, from the 30th day of June, 1979 to the 30th day of September, 1979. The continuation of the Act for certain specified purposes is correspondingly extended.

BILL 20

1979

## An Act to amend The Residential Premises Rent Review Act, 1975 (2nd Session)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 20 of *The Residential Premises Rent Review Act, 1975 (2nd Session)*, being chapter 12, as re-enacted by the Statutes of Ontario, 1978, chapter 103, section 1, is amended by striking out “30th day of June” in the fifth line and inserting in lieu thereof “30th day of September”. s. 20 (1),  
amended
- (2) Clause *a* of subsection 2 of the said section 20 is amended by striking out “30th day of June” in the third line and in the third and fourth lines and inserting in lieu thereof in each instance “30th day of September”. s. 20 (2) (a),  
amended
- (3) Subclause *i* of clause *b* of subsection 2 of the said section 20 is amended by striking out “30th day of June” in the second and third lines and inserting in lieu thereof “30th day of September”. s. 20 (2) (b) (i),  
amended
2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is *The Residential Premises Rent Review Amendment Act, 1979*. Short title

An Act to amend The Residential Premises  
Rent Review Act, 1975 (2nd Session)

---

*1st Reading*

March 15th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations

---

*(Government Bill)*

**BILL 20**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend The Residential Premises Rent Review  
Act, 1975 (2nd Session)**

THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL 20

1979

## An Act to amend The Residential Premises Rent Review Act, 1975 (2nd Session)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 20 of *The Residential Premises Rent Review Act, 1975 (2nd Session)*, being chapter 12, as re-enacted by the Statutes of Ontario, 1978, chapter 103, section 1, is amended by striking out “30th day of June” in the fifth line and inserting in lieu thereof “30th day of September”. s. 20 (1),  
amended
- (2) Clause *a* of subsection 2 of the said section 20 is amended by striking out “30th day of June” in the third line and in the third and fourth lines and inserting in lieu thereof in each instance “30th day of September”. s. 20 (2) (a),  
amended
- (3) Subclause *i* of clause *b* of subsection 2 of the said section 20 is amended by striking out “30th day of June” in the second and third lines and inserting in lieu thereof “30th day of September”. s. 20 (2) (b) (i),  
amended
2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is *The Residential Premises Rent Review Amendment Act, 1979*. Short title

## BILL 20

---

An Act to amend The Residential Premises  
Rent Review Act, 1975 (2nd Session)

---

*1st Reading*

March 15th, 1979

*2nd Reading*

March 27th, 1979

*3rd Reading*

March 27th, 1979

---

THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations

---

CH 2 dv  
YB  
-B58

3  
BILL 21  
11

Government  
Publications  
Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

Legislative Assembly

# An Act to amend The Ontario Human Rights Code

MR. NEWMAN  
(Windsor-Walkerville)





#### EXPLANATORY NOTE

The purpose of this Bill is to prevent discrimination on the basis of a physical handicap where that handicap does not reasonably preclude the performance of the particular employment.

“Physical handicap” means a physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness and includes epilepsy, diabetes and any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a seeing eye dog, wheelchair, or other remedial appliance or device.

BILL 21

1979

## An Act to amend The Ontario Human Rights Code

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The preamble to *The Ontario Human Rights Code*, being <sup>Preamble amended</sup> chapter 318 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 119, section 1, is further amended by inserting after "status" in the amendment of 1972 "a physical handicap".
2. Subsection 1 of section 1 of the said Act, as amended by the <sup>s. 1 (1), amended</sup> Statutes of Ontario, 1972, chapter 119, section 2, is further amended by inserting after "status" in the amendment of 1972 "a physical handicap".
3. Subsection 1 of section 2 of the said Act, as amended by the <sup>s. 2 (1), amended</sup> Statutes of Ontario, 1972, chapter 119, section 3, is further amended by inserting after "status" in the amendment of 1972 "a physical handicap".
4. Subsection 1 of section 3 of the said Act, as re-enacted by the <sup>s. 3 (1), amended</sup> Statutes of Ontario, 1972, chapter 119, section 4, is amended by inserting after "sex" in the eleventh line "a physical handicap".
- 5.—(1) Subsection 1 of section 4 of the said Act, as re-enacted <sup>s. 4 (1), amended</sup> by the Statutes of Ontario, 1972, chapter 119, section 5, is amended by inserting after "status" in the twenty-second line "a physical handicap".
- (2) Subsection 2 of the said section 4 is amended by <sup>s. 4 (2), amended</sup> inserting after "status" in the fifth line "a physical handicap".
- (3) Subsection 3 of the said section 4 is amended by <sup>s. 4 (3), amended</sup> inserting after "status" in the ninth line "a physical handicap".

s. 4 (5),  
amended

- (4) Subsection 5 of the said section 4 is amended by inserting after "status" in the third line "a physical handicap".

s. 4,  
amended

- (5) The said section 4, as amended by the Statutes of Ontario, 1974, chapter 73, sections 2 and 3, is further amended by adding thereto the following subsection:

Exception

(6a) The provisions of this section do not apply where the nature or extent of the physical handicap would reasonably preclude the performance of the particular employment.

s. 4 (7),  
amended

- (6) Subsection 7 of the said section 4 is amended by inserting after "status" in the third line "a physical handicap".

s. 4a (1),  
amended

- 6.—(1) Subsection 1 of section 4a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 119, section 6, is amended by inserting after "status" in the fourth line "a physical handicap".

s. 4a (2),  
amended

- (2) Subsection 2 of the said section 4a is amended by inserting after "status" in the fourth line "a physical handicap".

s. 6a,  
amended

7. Section 6a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 119, section 7, is amended by inserting after "status" in the eighth line "physical handicaps".

s. 9 (a, c),  
amended

8. Clauses a and c of section 9 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 119, section 9, are amended by inserting after "status" in the fourth line, in each instance, "physical handicaps".

s. 19,  
amended

9. Section 19 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 119, section 14, is further amended by adding thereto the following clause:

(ha) "physical handicap" means a physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness and includes epilepsy, diabetes and any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a seeing eye dog, wheelchair, or other remedial appliance or device.

- 10.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment
- 11.** The short title of this Act is *The Ontario Human Rights Code* Short title  
*Amendment Act, 1979.*





---

## BILL 21

---

### An Act to amend The Ontario Human Rights Code

---

#### *1st Reading*

March 15th, 1979

#### *2nd Reading*

#### *3rd Reading*

---

MR. NEWMAN  
(Windsor-Walkerville)

---

(*Private Member's Bill*)

---

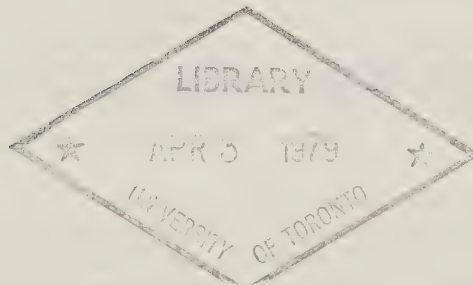
2  
BILL 22

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

*Legislative Assembly*

**An Act to amend The Ministry of Consumer and  
Commercial Relations Act**

THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTES

SECTION 1.—Subsection 1. The Act now permits representation on the Tribunal by representatives of industries registered under an Act administered by the Minister of Consumer and Commercial Relations. The amendment broadens this to permit representation of any industry registered under an Act under which hearings are assigned to the Tribunal.

Subsection 2. Complementary to the amendment made by subsection 1 of section 1 of the Bill.

SECTION 2. The Act now entitles the Minister of Consumer and Commercial Relations to be heard on an appeal. The amendment substitutes other ministers who may have an interest as set out in the amendment.

SECTION 3. The section being repealed provides for the creation of the Consumer and Commercial Relations Advisory Committee.

BILL 22

1979

## An Act to amend The Ministry of Consumer and Commercial Relations Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 4 of section 7 of *The Ministry of Consumer and Commercial Relations Act*, being chapter 113 of the Revised Statutes of Ontario, 1970, is amended by striking out “administered by the Minister” in the third and fourth lines and inserting in lieu thereof “under which hearings are assigned to the Tribunal”. s. 7 (4),  
amended

- (2) Subsection 7a of the said section 7, as enacted by the Statutes of Ontario, 1973, chapter 95, section 1, is repealed and the following substituted therefor: s. 7 (7a),  
re-enacted

(7a) Where the nature or size of an industry for which registration is required under an Act referred to in subsection 4 is such that a decision by one person engaged in the industry in respect of the affairs of another person engaged in the industry could not reasonably be made without the possibility of a conflict of interest, the Lieutenant Governor in Council may make regulations exempting the Act from the application of subsections 4 and 7. Application  
of subss. 4  
and 7

2. Section 9b of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 28, is amended by adding thereto the following subsection: s. 9b,  
amended

(3a) Where a hearing is assigned to the Tribunal under an Act not administered by the Minister of Consumer and Commercial Relations, the minister administering the Act under which the hearing is assigned to the Tribunal is the minister entitled to be heard under subsection 3. Idem

3. Section 11 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 23, is repealed. s. 11,  
repealed

Commence-  
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is *The Ministry of Consumer and Commercial Relations Amendment Act, 1979*.







An Act to amend  
The Ministry of Consumer and  
Commercial Relations Act

---

*1st Reading*

March 15th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations

---

*(Government Bill)*

---

3  
17 BILL 22

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

An Act to amend The Ministry of Consumer and  
Commercial Relations Act

THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO





BILL 22

1979

## An Act to amend The Ministry of Consumer and Commercial Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 4 of section 7 of *The Ministry of Consumer and Commercial Relations Act*, being chapter 113 of the Revised Statutes of Ontario, 1970, is amended by striking out “administered by the Minister” in the third and fourth lines and inserting in lieu thereof “under which hearings are assigned to the Tribunal”. s. 7 (4),  
amended

(2) Subsection 7a of the said section 7, as enacted by the Statutes of Ontario, 1973, chapter 95, section 1, is repealed and the following substituted therefor: s. 7 (7a),  
re-enacted

(7a) Where the nature or size of an industry for which registration is required under an Act referred to in subsection 4 is such that a decision by one person engaged in the industry in respect of the affairs of another person engaged in the industry could not reasonably be made without the possibility of a conflict of interest, the Lieutenant Governor in Council may make regulations exempting the Act from the application of subsections 4 and 7. Application  
of subss. 4  
and 7

2. Section 9b of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 28, is amended by adding thereto the following subsection: s. 9b,  
amended

(3a) Where a hearing is assigned to the Tribunal under an Act not administered by the Minister of Consumer and Commercial Relations, the minister administering the Act under which the hearing is assigned to the Tribunal is the minister entitled to be heard under subsection 3. Idem

3. Section 11 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 23, is repealed. s. 11,  
repealed

Commence-  
ment

**4.** This Act comes into force on the day it receives Royal Assent.

Short title

**5.** The short title of this Act is *The Ministry of Consumer and Commercial Relations Amendment Act, 1979*.







An Act to amend  
The Ministry of Consumer and  
Commercial Relations Act

---

*1st Reading*

March 15th, 1979

*2nd Reading*

May 17th, 1979

*3rd Reading*

May 17th, 1979

---

THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations

---

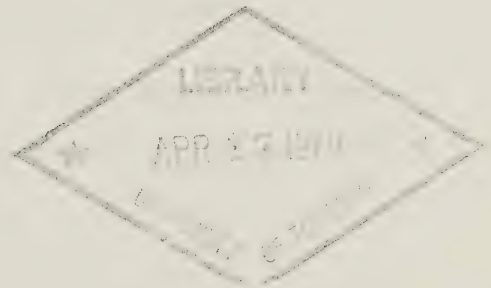
**BILL 23**

Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend  
The Legislative Assembly Act**

MR. SWART



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTE

The purpose of this Bill is to declare that the designations "Member of the Legislative Assembly" and "M.L.A." are the official designations of persons who are elected to the Legislative Assembly. The Bill provides that only members of the Legislative Assembly are entitled to use either of the official designations in association with themselves while sitting as elected members of the Assembly and during the succeeding election period. The designation MLA will conform to the designation in all other provinces except Quebec; it will eliminate the confusion between the designations MPP and MP, and it will correctly designate the position of the members.

BILL 23

1979

## An Act to amend The Legislative Assembly Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Legislative Assembly Act*, being chapter 240 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 15a,  
enacted

15a.—(1) The designations “Member of the Legislative Assembly” and “M.L.A.” shall be the official designations of a person who is elected to the Assembly and no person shall use either of the official designations in association with himself or otherwise purport to be a member of the Assembly unless that person is an elected member of the Assembly. Official  
designation  
of members

(2) Nothing in subsection 1 prohibits a person who is a member of the Assembly from using the official designation “Member of the Legislative Assembly” or “M.L.A.” during the election period immediately following the dissolution of the Legislature to which the person was elected but that person is not entitled to use either of the official designations after the polling day in the election unless the person has been elected to the succeeding Legislature. Idem

2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is *The Legislative Assembly Amendment Act, 1979*. Short title

---

---

**BILL 23**

An Act to amend  
The Legislative Assembly Act

---

*1st Reading*

March 15th, 1979

*2nd Reading*

*3rd Reading*

---

MR. SWART

---

*(Private Member's Bill)*

---

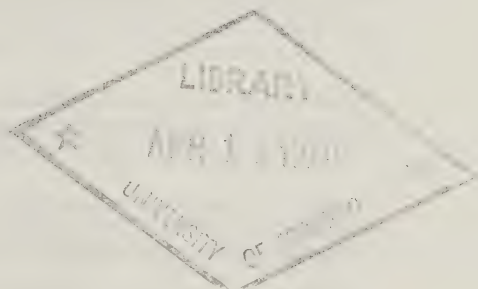
3  
B 56  
BILL 24

Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend  
The Environmental Protection Act, 1971**

THE HON. H. C. PARROTT  
Minister of the Environment



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

## EXPLANATORY NOTES

SECTION 1. Section 15 of the Act requires notification of an unusual discharge of a contaminant. The repeal of the section is related to the enactment of Part VIII-A of the Act by this Bill.

SECTION 2. New Part VIII-A of the Act deals with a spill, that is with the abnormal discharge of a pollutant into the natural environment and with prevention, cleanup and restoration of the natural environment. The Part also deals with liability for loss or damage arising out of a spill and with liability for the costs and expense of prevention, cleanup and restoration.

The Part also authorizes a municipality to take action for prevention, cleanup and restoration and to obtain compensation.

Section 68*b* requires the person who has control of the pollutant and the person who causes the spill to notify the Ministry, the municipality in which the spill occurred and the owner of the pollutant.

Section 68*c* imposes a duty on the responsible persons, that is, the owner of the pollutant and the person in control of the pollutant, to do everything practicable for prevention, cleanup and restoration.

Section 68*d* authorizes the Minister, without a hearing, to direct his employees and agents to take such steps as he considers necessary in respect of the prevention, cleanup and restoration.

Section 68*e* authorizes entry and work on any property for prevention, cleanup and restoration. The section also authorizes obtaining an order of a judge of the Supreme Court without notice for such entry and work.

Section 68*f* provides for control of the disposal or use of anything affected by the spill.

Section 68*g* authorizes the Minister to issue orders in respect of the prevention, cleanup and restoration.

Section 68*h* protects a person against conviction for carrying out remedial action under the Part.

Section 68*i* imposes liability on the responsible persons for the loss or damage that results from a spill and for all reasonable costs and expense of carrying out action for prevention, cleanup and restoration in accordance with an order or direction under the Part.

BILL 24

1979

## An Act to amend The Environmental Protection Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 15 of *The Environmental Protection Act, 1971*, being <sup>1971, c. 86,</sup> chapter 86, as amended by the Statutes of Ontario, 1972, <sup>s. 15,</sup> chapter 106, section 4, is repealed.
2. The said Act is amended by adding thereto the following Part: <sup>Part VIII-A,</sup> <sup>(ss. 68a-68d),</sup> <sup>enacted</sup>

### PART VIII-A

#### SPILLS

68a.—(1) In this Part,

Interpre-  
tation

- (a) “adverse effects” means the effects, or any of the effects, mentioned in clauses *a* to *h* of subsection 1 of section 68*b*;
- (b) “discharge”, when used as a verb, includes add, deposit, emit or leak and, when used as a noun, includes addition, deposit, emission or leak;
- (c) “municipality” means the corporation of a county, city, town, village, township or improvement district;
- (d) “owner of the pollutant” means the owner of the pollutant immediately before the first discharge of the pollutant, whether into the natural environment or not, in a quantity or with a quality abnormal at the location where the discharge occurs, and “owner of a pollutant” has a corresponding meaning;
- (e) “person having control of a pollutant” means the person and his employee or agent, if any, having the

charge, management or control of a pollutant immediately before the first discharge of the pollutant, whether into the natural environment or not, in a quantity or with a quality abnormal at the location where the discharge occurs, and "person having control of the pollutant" has a corresponding meaning;

- (f) "pollutant" means a contaminant other than heat, sound, vibration or radiation, and includes any substance from which a pollutant is derived;
- (g) "regional municipality" means the corporation of a metropolitan area, regional area or district area;
- (h) "restore the natural environment", when used with reference to a spill of a pollutant, means restore all forms of life, physical conditions, the natural environment and things existing immediately before the spill of the pollutant that are affected or that may reasonably be expected to be affected by the pollutant, and "restoration of the natural environment", when used with reference to a spill of a pollutant, has a corresponding meaning;
- (i) "spill", when used as a verb with reference to a pollutant, means discharge into the natural environment in a quantity or with a quality abnormal at the location where the discharge occurs, and when used as a noun has a corresponding meaning;
- (j) "substance" means any solid, liquid or gas, or any combination of any of them.

Abnormal  
discharge

(2) A discharge of a pollutant designated by the regulations at a location designated by the regulations shall be deemed to be in a quantity or with a quality abnormal at the location.

Notice to  
Ministry  
and others

68b.—(1) Every person having control of a pollutant that is spilled and every person who spills or causes or permits a spill of a pollutant that,

- (a) causes or is likely to cause impairment of the quality of the natural environment for any use that can be made of it;
- (b) causes or is likely to cause injury or damage to property or to plant or animal life;
- (c) causes or is likely to cause harm or material discomfort to any person;



- (d) adversely affects or is likely to adversely affect the health of any person;
- (e) impairs or is likely to impair the safety of any person;
- (f) renders or is likely to render any property or plant or animal life unfit for use by man;
- (g) causes or is likely to cause loss of enjoyment of normal use of property; or
- (h) interferes or is likely to interfere with the normal conduct of business,

shall forthwith notify,

- (i) the Ministry;
- (j) the municipality or, if the spill occurred within the boundaries of a regional municipality, the regional municipality within the boundaries of which the spill occurred;
- (k) where the person is not the owner of the pollutant and knows or is able to ascertain readily the identity of the owner of the pollutant, the owner of the pollutant; and
- (l) where the person is not the person having control of the pollutant and knows or is able to ascertain readily the identity of the person having control of the pollutant, the person having control of the pollutant,

of the spill, of the circumstances thereof, and of the action that the person has taken or intends to take with respect thereto.

(2) The duty imposed by subsection 1 comes into force in respect of each of the person having control of the pollutant and the person who spills or causes or permits the spill of the pollutant immediately he knows or ought to know that the pollutant is spilled and is causing or is likely to cause adverse effects. When duty effective

(3) The person required by subsection 1 to give notice and the owner of the pollutant shall give to the Director such additional information in respect of the pollutant, the source of the pollutant and the spill of the pollutant as may be required by the Director. Additional information to Director

(4) A member of a police force or an employee of a municipality or other public authority who is informed of or who investigates the spill of a pollutant shall forthwith notify Notice to Ministry by person investigating



the Ministry of the spill of the pollutant unless he has reasonable grounds for believing that such notice has been given to the Ministry by another person.

Duty  
to act

68c.—(1) The owner of a pollutant and the person having control of a pollutant that is spilled and that causes or is likely to cause adverse effects shall forthwith do everything practicable to prevent, eliminate and ameliorate the adverse effects and to restore the natural environment.

When duty  
effective

(2) The duty imposed by subsection 1 comes into force in respect of each of the owner of the pollutant and the person having control of the pollutant immediately the owner or person, as the case may be, knows or ought to know that the pollutant is spilled and is causing or is likely to cause adverse effects.

Directions by  
Minister

68d.—(1) Where a pollutant is spilled and the Minister is of the opinion that there are or are likely to be adverse effects as a result of the spill, the Minister, in the circumstances specified in subsection 2, may give directions in accordance with subsection 3 to the employees and agents of the Ministry.

Where  
Minister  
may give  
directions

(2) The Minister may give directions in accordance with subsection 3 where the Minister is of the opinion that it is in the best interest of the public to do so and,

- (a) the Minister is of the opinion that neither the person having control of the pollutant nor the owner of the pollutant will carry out promptly the duty imposed by section 68c;
- (b) the Minister is of the opinion that the person having control of the pollutant or the owner of the pollutant cannot be readily identified or located and that as a result the duty imposed by section 68c will not be carried out promptly; or
- (c) the person having control of the pollutant or the owner of the pollutant requests the assistance of the Minister in order to carry out the duty imposed by section 68c.

Contents of  
directions

(3) Under this section, the Minister may direct the employees and agents of the Ministry to do everything practicable or to take such action as may be specified in the directions in respect of the prevention, elimination and amelioration of the adverse effects and the restoration of the natural environment.

(4) The Minister may give directions amending or revoking <sup>Further directions</sup> directions given under this section.

(5) Upon the giving of directions under this section, the <sup>Employees and agents</sup> employees and agents of the Ministry may act in accordance with the directions notwithstanding any Act, regulation, by-law, order, permit, approval or licence.

(6) The Minister need not hold or afford to any person <sup>Hearing</sup> an opportunity for a hearing before giving directions under this section.

68e.—(1) For the purpose of carrying out any duty <sup>Entry and removal</sup> imposed or order or direction made or given under this Part, any person subject to the duty or to whom the order or direction is made or given and his employees and agents, may enter and have access through or over any building, structure, vehicle, land, water or air and may construct structures and use machinery, structures, materials, and equipment therein or thereon and may remove therefrom the pollutant or any matter, thing, plant or animal or any part of the natural environment that is affected or that may reasonably be expected to be affected by the pollutant.

(2) The rights set out in subsection 1 may be enforced <sup>Enforcement of right of entry, etc.</sup> by application without notice to a judge of the Supreme Court or a local judge of the High Court by a person, employee or agent referred to in subsection 1.

(3) Where the judge or local judge is satisfied, on an <sup>Order by judge of Supreme Court</sup> application under subsection 2, that there is reasonable ground for believing that it is necessary,

- (a) to enter and have access through or over any building, structure, vehicle, land, water or air;
- (b) to construct structures or use machinery, structures, materials or equipment therein or thereon; or
- (c) to remove the pollutant or any matter, thing, plant or animal or any part of the natural environment that is affected or that may reasonably be expected to be affected by the pollutant,

for the purpose of carrying out any duty imposed or order or direction made or given under this Part, the judge or local judge may issue an order authorizing the person and his employees and agents or any one or more of them to act as mentioned in clauses *a*, *b* and *c*, or any of them, but every such action shall be taken between sunrise and sunset unless

the judge or local judge authorizes them or any of them to act at another time.

Disposal of  
pollutant,  
etc.

68f.—(1) No person, employee or agent carrying out any duty imposed or order or direction made or given under this Part shall dispose of or use any pollutant, or any matter, thing, plant or animal or any part of the natural environment that is affected or that may reasonably be expected to be affected by the pollutant except,

- (a) in accordance with an order of or direction by the Minister under this or any other Act;
- (b) in accordance with a direction by or the approval of the Director;
- (c) in accordance with an approval, order, requirement or direction by the Director under any other Part of this Act or by a Director under any other Act administered by the Minister; or
- (d) by disposal in a waste disposal site in respect of which a certificate of approval has been issued and in accordance with any conditions set out in the certificate and any directions of the Director under subsection 2.

Direction or  
approval by  
Director

(2) The Director may give, amend or revoke a direction or approval mentioned in clause *b* of subsection 1 to any person referred to in subsection 1.

Conditions

(3) The Director may attach such conditions as he considers necessary to an approval mentioned in clause *b* of subsection 1.

Hearing

(4) The Director need not hold or afford to any person an opportunity for a hearing before giving, amending or revoking a direction or approval referred to in clause *b* of subsection 1.

Orders by  
Minister

68g.—(1) Where a pollutant is spilled and the Minister is of the opinion that there are or are likely to be adverse effects and that it is in the best interest of the public to make an order under this section, the Minister may make an order directed to one or more of the following:

1. The owner of the pollutant.
2. The person having control of the pollutant.

3. The owner or the person having the charge, management or control of any real property or personal property that is affected or that may reasonably be expected to be affected by the pollutant.
4. The municipality or regional municipality, or both of them, within whose boundaries the spill occurred.
5. Any municipality or regional municipality contiguous to the municipality or regional municipality within whose boundaries the spill occurred.
6. Any municipality or regional municipality that is affected or that may reasonably be expected to be affected by the spill of the pollutant.
7. Any public authority.
8. Any person who is or may be adversely affected by the pollutant or whose assistance is necessary, in the opinion of the Minister, to prevent, eliminate or ameliorate the adverse effects or to restore the natural environment.

(2) In an order under this section, the Minister may require the doing of everything practicable or the taking of such action as may be specified in the order in respect of the prevention, elimination and amelioration of the adverse effects and the restoration of the natural environment within such period or periods of time as may be specified in the order. Content of  
orders

(3) In an order under this section, the Minister may <sup>Idem</sup> require the doing of everything practicable or the taking of such action as may be specified in the order in respect of the use or disposal of,

- (a) the pollutant; or
- (b) any matter, thing, plant or animal or any part of the natural environment affected or that may reasonably be expected to be affected by the pollutant,

within such period or periods of time as may be specified in the order.

Amendment  
or revocation  
of order

(4) The Minister by an order may amend or revoke an order made under this section.

Effect of  
any Act,  
regulation,  
etc.

(5) The Minister may make an order under this section notwithstanding any Act, regulation, by-law, order, permit, approval or licence.

Hearing

(6) The Minister need not hold or afford to any person an opportunity for a hearing before making an order under this section.

Notice  
of order

(7) The Minister may direct, orally or in writing, a representative of the Ministry to give a written notice setting out an order of the Minister made orally or in writing under this section.

Effect of  
notice

(8) An order of the Minister set out in a notice under subsection 7 is for all purposes an order of the Minister made under this section.

Service of  
order or  
notice

(9) Where an order under this section or a notice under subsection 7 that sets out an order is given to an employee or agent of an employer or principal named in the order, the order shall be deemed to be given to the employer or principal.

Writing  
required

(10) An order under this section is not effective unless it is set out in writing or is set out in a notice referred to in subsection 7.

Effect of  
compliance  
with duty,  
or order, etc.

68*h*. A person that in good faith and in a reasonable manner, in carrying out or attempting to carry out,

(a) a duty imposed by this Part; or

(b) an order or direction by the Minister or a direction or approval by the Director under this Part,

takes or refrains from taking any action shall not be convicted of an offence in respect of such taking or refraining from taking of action.

Interpre-  
tation

68*i*—(1) In this section, “loss or damage” includes personal injury, loss of life and pecuniary loss.

Right to  
compensation

(2) Her Majesty in right of Ontario or in right of Canada or any other person has the right to compensation,





Subsection 4 of the section provides that this liability is absolute and does not depend on fault or negligence.

Subsection 5 of the section reduces compensation where there is contributory negligence or where the person claiming compensation is one of the responsible persons.

Subsections 6 to 10 of the section provide for contribution between persons liable to pay compensation by rules similar to the rules in *The Negligence Act*.

- (a) for loss or damage incurred as a direct result of,
  - (i) the spill of a pollutant that causes or is likely to cause adverse effects,
  - (ii) carrying out or attempting to carry out a duty imposed or an order or direction made under this Part, or
  - (iii) neglect or default in carrying out a duty imposed or an order or direction made under this Part;
- (b) for all reasonable cost and expense incurred in respect of carrying out or attempting to carry out an order or direction under this Part,

from the owner of the pollutant and the person having control of the pollutant and the successors and assignees of either of them.

(3) The right to compensation under subsection 2 may be <sup>Enforcement of right</sup> enforced by action in a court of competent jurisdiction.

(4) Liability under subsection 2 is absolute and does not <sup>Liability</sup> depend upon fault or negligence.

(5) In an action under this section, <sup>Contribution</sup>

- (a) where the plaintiff is an owner of the pollutant or a person having control of the pollutant, or a successor or assignee of either of them, the court shall determine the degree, if any, in which the plaintiff would be liable to make contribution or indemnification under subsection 6 if the plaintiff were a defendant; and
- (b) where the plaintiff is not an owner or a person having control referred to in clause a, or a successor or assignee of either of them, the court shall determine the degree, if any, in which the plaintiff caused or contributed to the loss, damage, cost or expense by fault or negligence,

and the court shall reduce the compensation by the degree, if any, so determined.

(6) Where two or more persons are liable to pay compensation <sup>Extent of liability</sup> under this section, they are jointly and severally liable to the person suffering the loss, damage, cost or expense but as



between themselves, in the absence of an express or implied contract, each is liable to make contribution to and indemnify each other in accordance with the following principles:

1. Where two or more persons are liable to pay compensation under this section and one or more of them caused or contributed to the loss, damage, cost or expense by fault or negligence, such one or more of them shall make contribution to and indemnify,
  - i. where one person is found at fault or negligent, any other person liable to pay compensation under this section, and
  - ii. where two or more persons are found at fault or negligent, each other and any other person liable to pay compensation under this section in the degree in which each of such two or more persons caused or contributed to the loss, damage, cost or expense by fault or negligence.
2. For the purpose of subparagraph ii of paragraph 1, if it is not practicable to determine the respective degrees in which the fault or negligence of two or more persons liable to pay compensation under this section caused or contributed to the loss, damage, cost or expense, such two or more persons shall be deemed to be equally at fault or negligent.
3. Where no person liable to pay compensation under this section caused or contributed to the loss, damage, cost or expense by fault or negligence, each of the persons liable to pay compensation is liable to make contribution to and indemnify each other in such degree as is determined to be just and equitable in the circumstances.

Enforcement  
of  
contribution

(7) The right to contribution or indemnification under subsection 6 may be enforced by action in a court of competent jurisdiction.

Adding  
parties

(8) Wherever it appears that a person not already a party to an action under this section may be liable in respect of the loss, damage, cost or expense for which compensation is claimed, the person may be added as a party defendant to the action upon such terms as are considered just or may be made a third party to the action in the manner prescribed by the rules of practice for adding third parties.



Subsection 11 of the section provides a time limit of two years from starting dates set out in the section for lawsuits for compensation.

Subsection 12 of the section provides for a time limit of one year in the circumstances set out in the section for lawsuits for contribution or indemnity under the section.

(9) A person liable to pay compensation under this section may recover contribution or indemnity from any other person liable to pay compensation under this section in respect of the loss, damage, cost or expense for which the compensation is claimed by settling with the person suffering the loss, damage, cost or expense and continuing the action or commencing an action against such other person.

Settlement  
and recovery  
between  
persons  
liable

(10) A person who has settled a claim and continued or commenced an action as mentioned in subsection 9 must satisfy the court that the amount of the settlement was reasonable, and, if the court finds the amount was excessive, the court may fix the amount at which the claim should have been settled.

Amount of  
settlement

(11) No person is liable to an action for compensation under this section unless the action is commenced within two years from,

Limitation for  
actions for  
compensation

- (a) where the person commencing the action incurred loss or damage as a result of the spill of a pollutant, the date when the person knew or ought to have known of the loss or damage;
- (b) where the person commencing the action incurred loss or damage as a result of carrying out or attempting to carry out or neglect or default in carrying out a duty imposed or an order or direction made under this Part, the date when the person knew or ought to have known of the loss or damage; or
- (c) where the person commencing the action incurred cost and expense in respect of carrying out or attempting to carry out an order or direction made under this Part, the date when the person incurred the cost and expense.

(12) Where, within the period of time prescribed by subsection 11, an action for compensation is commenced against a person liable to pay compensation under this section or a person liable to pay compensation under this section settles a claim for compensation with a person who has suffered loss, damage, cost or expense, no proceedings for contribution or indemnity against another person liable to pay compensation under this section are defeated by the operation of any Act limiting the time for the commencement of action against such other person if,

Limitations  
for actions for  
contribution  
or indemnity

- (a) the proceedings are commenced within one year of the date of the judgment in the action or the settlement, as the case may be; and

- (b) there has been compliance with any Act requiring notice of claim against such other person.

Action by  
municipality  
or designated  
persons

68j—(1) Where a pollutant is spilled and causes or is likely to cause adverse effects,

- (a) a municipality;
- (b) a regional municipality; and
- (c) a person or a member of a class of persons designated by the regulations,

or any one or more of them, may do everything practicable to prevent, eliminate and ameliorate the adverse effects and to restore the natural environment.

Right of  
entry and  
immunity  
from prosecution

(2) A municipality or regional municipality or a person or member of a class of persons designated by the regulations acting under subsection 1 or an employee or agent of any of them so acting has the rights of a person under section 68e and, if acting in good faith and in a reasonable manner, the immunity conferred on a person by section 68h.

Co-operation  
with others

(3) A municipality or regional municipality or a person or a member of a class of persons designated by the regulations acting under subsection 1 must,

- (a) co-ordinate efforts with;
- (b) make use of the expertise of; and
- (c) not impede,

a person carrying out a duty, order or direction under this Part.

Right to  
compensation

(4) A municipality, a regional municipality or a person or member of a class of persons designated by the regulations has the right to compensation from the owner of the pollutant and the person having control of the pollutant and the successors and assignees of either of them for all reasonable cost and expense incurred in acting under subsection 1.

Enforcement

(5) The right to compensation under subsection 4 may be enforced by action in a court of competent jurisdiction.

Application  
of s. 68i (4-12)

(6) Where the right to compensation under subsection 4 arises, subsections 4 to 12 of section 68i apply with necessary modifications.

Section 68j authorizes a municipality or a person designated by the regulations to take action for prevention, cleanup and restoration and to obtain compensation from the responsible persons. For the purpose of such action the municipality or person may enter and do work on any property, may obtain a court order for such work and is protected against conviction in the same manner as a person carrying out a duty, order or direction under the Part.

Section 68~~k~~ provides for compensation from the Crown for any person entitled to compensation for reasonable cost and expense of carrying out an order under the Part. This right does not apply to the responsible persons, a person liable at law other than under the Part or a person complying with a direction of the Director with respect to disposal or use of anything affected by the spill or any employee or agent of them. Upon payment of such compensation the Crown is subrogated to the rights of the person compensated.



68k. (1) A person, other than a person referred to in subsection 2, entitled under clause *b* of subsection 2 of section 68i to compensation for reasonable cost and expense has the right, subject to the conditions prescribed by the regulations, to payment of such compensation from Her Majesty in right of Ontario. Right to compensation from Crown

(2) Subsection 1 does not give a right to payment of compensation to, Application of subs. 1

- (a) the owner of the pollutant;
- (b) the person having control of the pollutant;
- (c) a person liable at law other than under this Part for loss, damage, cost or expense arising from the spill of the pollutant;
- (d) a person complying with a direction under section 68f,

or an employee or agent of any of them.

(3) The right to payment of compensation under subsection 1 may be enforced by action in a court of competent jurisdiction. Enforcement of right of Crown

(4) Her Majesty in right of Ontario has the right to compensation under subsection 2 of section 68i for reasonable cost and expense in the place of a person to whom compensation has been paid under subsection 1 to the extent of the amount of the payment of compensation by and any costs of Her Majesty. Right of Crown

(5) For the purposes of subsection 4, the payment of compensation by Her Majesty in right of Ontario under subsection 1 shall not be construed to affect the right of the person under subsection 2 of section 68i to compensation for reasonable cost and expense so paid by Her Majesty. Idem

(6) The right to compensation under subsection 4 may be enforced in a court of competent jurisdiction by Her Majesty in right of Ontario in Her Majesty's name or in the name of the person to whom the compensation has been paid. Enforcement

(7) A person that fails to comply with or contravenes a condition prescribed by the regulations that must be complied with before payment of compensation under subsection 1 is disentitled to the payment. Disentitlement

(8) Where a person fails to comply with or contravenes a condition prescribed by the regulations that attaches to the Repayment



payment of compensation under subsection 1, Her Majesty in right of Ontario has the right to recover the amount of the compensation paid and the right may be enforced in a court of competent jurisdiction.

Application  
of s. 68i (4-12)

(9) Where the right to compensation under subsection 4 arises, subsections 4 to 12 of section 68i apply with necessary modifications.

Right of  
recourse

68l. Except as expressly provided in this Part, nothing in this Part limits or restricts any right or remedy that any person may have against another person.

s. 94,  
amended

3. Section 94 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 106, section 31, 1973, chapter 94, section 11 and 1976, chapter 49, section 1, is further amended by adding thereto the following subsection:

Regulations  
relating to  
Part VIII-A

(6a) The Lieutenant Governor in Council may make regulations relating to Part VIII-A,

- (a) designating persons and classes of persons for the purposes of subsection 1 of section 68j and prescribing limitations that shall attach to any such designation;
- (b) prescribing conditions that must be complied with by applicants for payment of compensation under subsection 1 of section 68k before payment of the compensation;
- (c) prescribing conditions that shall attach to the payment of compensation under subsection 1 of section 68k;
- (d) designating discharges of pollutants and locations of discharges for the purposes of subsection 2 of section 68a, but no discharge of pollutant or location of discharge shall be designated that is in accordance with an approval, licence, permit, order or regulation under this Act or an approval, direction, notice, order, regulation or report under *The Ontario Water Resources Act* or a licence, order, permit or regulation under *The Pesticides Act, 1973*;
- (e) classifying spills and exempting any spill or any class of spill from the application of Part VIII-A or any section or portion of Part VIII-A and attaching conditions to any such exemption.

R.S.O. 1970,  
c. 332  
1973, c. 25

R.S.O. 1970,  
c. 332,  
s. 32 (3, 4),  
repealed

4. Subsections 3 and 4 of section 32 of *The Ontario Water Resources Act*, being chapter 332 of the Revised Statutes of Ontario, 1970,

Section 68/ states that, except as expressly provided in the Part, the Part does not affect any person's rights or remedies against any other person.

SECTION 3. The amendment provides for regulations related to new Part VIII-A,

- (a) in clause *a*, designating persons who may take action for prevention, cleanup and restoration;
- (b) in clauses *b* and *c*, prescribing conditions relating to payment of compensation by the Crown;
- (c) in clause *d*, designating unauthorized or unregulated discharges of pollutants and their locations that shall be deemed to be abnormal discharges, with the effect that where the discharge is into the natural environment it is a spill;
- (d) in clause *e*, providing for exemptions of spills.

SECTION 4. Subsection 3 of section 32 of *The Ontario Water Resources Act* requires that notice be given to the Minister of any spill into or that may pollute water or a watercourse. Subsection 4 provides a penalty for failure to give the notice.

The repeal of the subsection is related to the enactment of Part VIII-A of *The Environmental Protection Act, 1971* by this Bill.



as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed.

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment
6. The short title of this Act is *The Environmental Protection Amendment Act, 1979*. Short title















An Act to amend  
The Environmental Protection  
Act, 1971

---

*1st Reading*

March 27th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. H. C. PARROTT  
Minister of the Environment

---

*(Government Bill)*

A20N  
XB  
- 1356

3  
17 **BILL 24**

Gove  
Publi

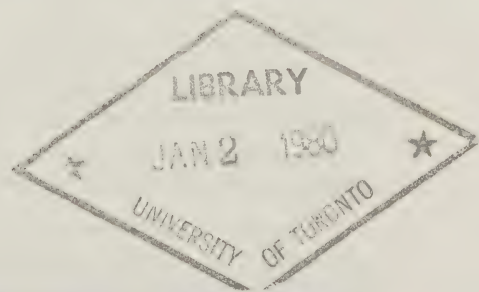
**Government Bill**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend  
The Environmental Protection Act, 1971**

THE HON. H. C. PARROTT  
Minister of the Environment

*(Reprinted as amended by the Resources Development Committee)*



## EXPLANATORY NOTES

SECTION 1. Section 15 of the Act requires notification of an unusual discharge of a contaminant. The repeal of the section is related to the enactment of Part VIII-A of the Act by this Bill.

SECTION 2. New Part VIII-A of the Act deals with a spill, that is with the abnormal discharge of a pollutant into the natural environment and with prevention, cleanup and restoration of the natural environment. The Part also deals with liability for loss or damage arising out of a spill and with liability for the costs and expense of prevention, cleanup and restoration.

The Part also authorizes a municipality to take action for prevention, cleanup and restoration and to obtain compensation.

Section 68*b* requires the person who has control of the pollutant and the person who causes the spill to notify the Ministry, the municipality in which the spill occurred and the owner of the pollutant.

Section 68*c* imposes a duty on the responsible persons, that is, the owner of the pollutant and the person in control of the pollutant, to do everything practicable for prevention, cleanup and restoration.

Section 68*d* authorizes the Minister, without a hearing, to direct his employees and agents to take such steps as he considers necessary in respect of the prevention, cleanup and restoration.

Section 68*e* authorizes entry and work on any property for prevention, cleanup and restoration. The section also authorizes obtaining an order of a judge of the Supreme Court without notice for such entry and work.

Section 68*f* provides for control of the disposal or use of anything affected by the spill.

Section 68*g* authorizes the Minister to issue orders in respect of the prevention, cleanup and restoration.

Section 68*h* protects a person against conviction for carrying out remedial action under the Part.

Section 68*i* imposes liability on the responsible persons for the loss or damage that results from a spill and for all reasonable costs and expense of carrying out action for prevention, cleanup and restoration in accordance with an order or direction under the Part.

BILL 24

1979

## An Act to amend The Environmental Protection Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 15 of *The Environmental Protection Act, 1971*, being 1971, c. 86, chapter 86, as amended by the Statutes of Ontario, 1972, <sup>s. 15,</sup> repealed chapter 106, section 4, is repealed.
2. The said Act is amended by adding thereto the following Part: <sup>Part VIII-A,</sup>  
<sup>(ss. 68a-68d),</sup>  
<sup>enacted</sup>

### PART VIII-A

#### SPILLS

68a.—(1) In this Part,

Interpre-  
tation

- (a) “adverse effects” means the effects, or any of the effects, mentioned in clauses *a* to *h* of subsection 1 of section 68b;
- (b) “discharge”, when used as a verb, includes add, deposit, emit or leak and, when used as a noun, includes addition, deposit, emission or leak;
- (c) “municipality” means the corporation of a county, city, town, village, township or improvement district;
- (d) “owner of the pollutant” means the owner of the pollutant immediately before the first discharge of the pollutant, whether into the natural environment or not, in a quantity or with a quality abnormal at the location where the discharge occurs, and “owner of a pollutant” has a corresponding meaning;
- (e) “person having control of a pollutant” means the person and his employee or agent, if any, having the

charge, management or control of a pollutant immediately before the first discharge of the pollutant, whether into the natural environment or not, in a quantity or with a quality abnormal at the location where the discharge occurs, and "person having control of the pollutant" has a corresponding meaning;

(f) "pollutant" means a contaminant other than heat, sound, vibration or radiation, and includes any substance from which a pollutant is derived;

(g) "practicable" means capable of being effected or accomplished;

(h) "regional municipality" means the corporation of a metropolitan area, regional area or district area;

(i) "restore the natural environment", when used with reference to a spill of a pollutant, means restore all forms of life, physical conditions, the natural environment and things existing immediately before the spill of the pollutant that are affected or that may reasonably be expected to be affected by the pollutant, and "restoration of the natural environment", when used with reference to a spill of a pollutant, has a corresponding meaning;

(j) "spill", when used with reference to a pollutant, means a discharge,

(i) into the natural environment,

(ii) from or out of a structure, vehicle or other container, and

(iii) that is abnormal in quality or quantity in light of all the circumstances of the discharge,

and when used as a verb has a corresponding meaning;

(k) "substance" means any solid, liquid or gas, or any combination of any of them.

Abnormal  
discharge

(2) A discharge of a pollutant designated by the regulations at a location designated by the regulations shall be deemed to be in a quantity or with a quality abnormal at the location.

Practicable

(3) In determining what is practicable for the purposes of this Part, regard shall be had to the technical, physical and financial resources that are or can reasonably be made available.

(4) This Part does not apply to the disposal of animal wastes in accordance with normal farming practices. Exception re farming

(5) A reference in this Part, other than in section 68*b*, to an owner of a pollutant or a person having control of a pollutant includes a successor, assignee, executor or administrator of the owner of the pollutant or the person having control of the pollutant. Successors, etc.

68*b*.—(1) Every person having control of a pollutant that is spilled and every person who spills or causes or permits a spill of a pollutant that, Notice to Ministry and others

- (*a*) causes or is likely to cause impairment of the quality of the natural environment for any use that can be made of it;
- (*b*) causes or is likely to cause injury or damage to property or to plant or animal life;
- (*c*) causes or is likely to cause harm or material discomfort to any person;
- (*d*) adversely affects or is likely to adversely affect the health of any person;
- (*e*) impairs or is likely to impair the safety of any person;
- (*f*) renders or is likely to render any property or plant or animal life unfit for use by man;
- (*g*) causes or is likely to cause loss of enjoyment of normal use of property; or
- (*h*) interferes or is likely to interfere with the normal conduct of business,

shall forthwith notify,

- (*i*) the Ministry;
- (*j*) the municipality or, if the spill occurred within the boundaries of a regional municipality, the regional municipality within the boundaries of which the spill occurred;
- (*k*) where the person is not the owner of the pollutant and knows or is able to ascertain readily the identity of the owner of the pollutant, the owner of the pollutant; and
- (*l*) where the person is not the person having control of the pollutant and knows or is able to ascertain



readily the identity of the person having control of the pollutant, the person having control of the pollutant,

of the spill, of the circumstances thereof, and of the action that the person has taken or intends to take with respect thereto.

When duty effective

(2) The duty imposed by subsection 1 comes into force in respect of each of the person having control of the pollutant and the person who spills or causes or permits the spill of the pollutant immediately he knows or ought to know that the pollutant is spilled and is causing or is likely to cause adverse effects.

Additional information to Director

(3) The person required by subsection 1 to give notice and the owner of the pollutant shall give to the Director such additional information in respect of the pollutant, the source of the pollutant and the spill of the pollutant as may be required by the Director.

Notice to Ministry by person investigating

(4) A member of a police force or an employee of a municipality or other public authority who is informed of or who investigates the spill of a pollutant shall forthwith notify the Ministry of the spill of the pollutant unless he has reasonable grounds for believing that such notice has been given to the Ministry by another person.

Duty to act

68c.—(1) The owner of a pollutant and the person having control of a pollutant that is spilled and that causes or is likely to cause adverse effects shall forthwith do everything practicable to prevent, eliminate and ameliorate the adverse effects and to restore the natural environment.

When duty effective

(2) The duty imposed by subsection 1 comes into force in respect of each of the owner of the pollutant and the person having control of the pollutant immediately the owner or person, as the case may be, knows or ought to know that the pollutant is spilled and is causing or is likely to cause adverse effects.

Directions by Minister

68d.—(1) Where a pollutant is spilled and the Minister is of the opinion that there are or are likely to be adverse effects as a result of the spill, the Minister, in the circumstances specified in subsection 2, may give directions in accordance with subsection 3 to the employees and agents of the Ministry.

Where Minister may give directions

(2) The Minister may give directions in accordance with subsection 3 where the Minister is of the opinion that it is in the best interest of the public to do so and,

- (a) the Minister is of the opinion that neither the person having control of the pollutant nor the owner of the pollutant will carry out promptly the duty imposed by section 68c;
- (b) the Minister is of the opinion that the person having control of the pollutant or the owner of the pollutant cannot be readily identified or located and that as a result the duty imposed by section 68c will not be carried out promptly; or
- (c) the person having control of the pollutant or the owner of the pollutant requests the assistance of the Minister in order to carry out the duty imposed by section 68c.

(3) Under this section, the Minister may direct the employees and agents of the Ministry to do everything practicable or to take such action as may be specified in the directions in respect of the prevention, elimination and amelioration of the adverse effects and the restoration of the natural environment. Contents of directions

(4) The Minister may give directions amending or revoking directions given under this section. Further directions

(5) No Act, regulation, by-law, order, permit, approval or licence bars the employees and agents of the Ministry from acting in accordance with directions given by the Minister under this section. Employees and agents

(6) The Minister need not hold or afford to any person an opportunity for a hearing before giving directions under this section. Hearing

68e.—(1) For the purpose of carrying out any duty imposed or order or direction made or given under this Part, any person subject to the duty or to whom the order or direction is made or given and his employees and agents, may enter and have access through or over any building, structure, vehicle, land, water or air and may construct structures and use machinery, structures, materials, and equipment therein or thereon and may remove therefrom the pollutant or any matter, thing, plant or animal or any part of the natural environment that is affected or that may reasonably be expected to be affected by the pollutant. Entry and removal

(2) The rights set out in subsection 1 may be enforced by application without notice to a judge of the Supreme Court or a local judge of the High Court by a person, employee or agent referred to in subsection 1. Enforcement of right of entry, etc.

Order by  
judge

(3) Where the judge or local judge is satisfied, on an application under subsection 2, that there is reasonable ground for believing that it is necessary,

- (a) to enter and have access through or over any building, structure, vehicle, land, water or air;
- (b) to construct structures or use machinery, structures, materials or equipment therein or thereon; or
- (c) to remove the pollutant or any matter, thing, plant or animal or any part of the natural environment that is affected or that may reasonably be expected to be affected by the pollutant,

for the purpose of carrying out any duty imposed or order or direction made or given under this Part, the judge or local judge may issue an order authorizing the person and his employees and agents or any one or more of them to act as mentioned in clauses *a*, *b* and *c*, or any of them, but every such action shall be taken between sunrise and sunset unless the judge or local judge authorizes them or any of them to act at another time.

Disposal of  
pollutant,  
etc.

68f.—(1) No person, employee or agent exercising any authority under subsection 1 of section 68j or carrying out any duty imposed or order or direction made or given under this Part shall dispose of or use any pollutant, or any matter, thing, plant or animal or any part of the natural environment that is affected or that may reasonably be expected to be affected by the pollutant except,

- (a) in accordance with an order of or direction by the Minister under this or any other Act;
- (b) in accordance with a direction by or the approval of the Director, but such a direction or approval shall not be contrary to the regulations; or
- (c) in accordance with an approval, order, requirement or direction by the Director under any other Part of this Act or by a Director under any other Act administered by the Minister, but such an approval, order, requirement or direction shall not be contrary to the regulations.

Direction or  
approval by  
Director

(2) The Director may give to any person, employee or agent mentioned in subsection 1, and may amend or revoke, a direction or approval mentioned in clause *b* of subsection 1 and may do so notwithstanding the terms of or conditions in a certificate of approval issued under Part V in respect of a waste disposal site.

(3) The Director may attach such conditions as he con- <sup>Conditions</sup>  
siders necessary to an approval mentioned in clause *b* of  
subsection 1.

(4) The Director need not hold or afford to any person <sup>Hearing</sup>  
an opportunity for a hearing before giving, amending or  
revoking a direction or approval referred to in clause *b* of  
subsection 1.

68g.—(1) Where a pollutant is spilled and the Minister is <sup>Orders by  
Minister</sup>  
of the opinion that there are or are likely to be adverse  
effects and that it is in the best interest of the public to  
make an order under this section, the Minister may make an  
order directed to one or more of the following:

1. The owner of the pollutant.
2. The person having control of the pollutant.
3. The owner or the person having the charge, manage-  
ment or control of any real property or personal  
property that is affected or that may reasonably be  
expected to be affected by the pollutant.
4. The municipality or regional municipality, or both  
of them, within whose boundaries the spill occurred.
5. Any municipality or regional municipality contig-  
uous to the municipality or regional municipality  
within whose boundaries the spill occurred.
6. Any municipality or regional municipality that is  
affected or that may reasonably be expected to be  
affected by the spill of the pollutant.
7. Any public authority.
8. Any person who is or may be adversely affected  
by the pollutant or whose assistance is necessary,  
in the opinion of the Minister, to prevent, eliminate  
or ameliorate the adverse effects or to restore the  
natural environment.

(2) In an order under this section, the Minister may require <sup>Content of  
orders</sup>  
the doing of everything practicable or the taking of such  
action as may be specified in the order in respect of the  
prevention, elimination and amelioration of the adverse

effects and the restoration of the natural environment within such period or periods of time as may be specified in the order.

Idem

(3) In an order under this section, the Minister may require the doing of everything practicable or the taking of such action as may be specified in the order in respect of the use or disposal of,

(a) the pollutant; or

(b) any matter, thing, plant or animal or any part of the natural environment affected or that may reasonably be expected to be affected by the pollutant,

within such period or periods of time as may be specified in the order.

Amendment  
or revocation  
of order

(4) The Minister by an order may amend or revoke an order made under this section.

Effect of  
any Act,  
regulation,  
etc.

(5) The Minister may make an order under this section notwithstanding any Act, regulation, by-law, order, permit, approval or licence.

Hearing

(6) The Minister need not hold or afford to any person an opportunity for a hearing before making an order under this section.

Notice  
of order

(7) The Minister may direct, orally or in writing, a representative of the Ministry to give a written notice setting out an order of the Minister made orally or in writing under this section.

Effect of  
notice

(8) An order of the Minister set out in a notice under subsection 7 is for all purposes an order of the Minister made under this section.

Service of  
order or  
notice

(9) Where an order under this section or a notice under subsection 7 that sets out an order is given to an employee or agent of an employer or principal named in the order, the order shall be deemed to be given to the employer or principal.

Writing  
required

(10) An order under this section is not effective unless it is set out in writing or is set out in a notice referred to in subsection 7.





Subsections 3 and 4 of the section reduce the liability in the circumstances set out in the subsections.





68*h*. A person that in good faith and in a reasonable manner, in carrying out or attempting to carry out,

Effect of compliance with duty, or order, etc.

- (a) a duty imposed by this Part; or
- (b) an order or direction by the Minister or a direction or approval by the Director under this Part,

takes or refrains from taking any action shall not be convicted of an offence in respect of such taking or refraining from taking of action.

68*i*.—(1) In this section, “loss or damage” includes personal injury, loss of life, loss of use or enjoyment of property and pecuniary loss, including loss of income.

Interpretation

(2) Her Majesty in right of Ontario or in right of Canada or any other person has the right to compensation,

Right to compensation

- (a) for loss or damage incurred as a direct result of,
  - (i) the spill of a pollutant that causes or is likely to cause adverse effects,
  - (ii) the exercise of any authority under subsection 1 of section 68*j* or the carrying out of or attempting to carry out a duty imposed or an order or direction made under this Part, or
  - (iii) neglect or default in carrying out a duty imposed or an order or direction made under this Part;

- (b) for all reasonable cost and expense incurred in respect of carrying out or attempting to carry out an order or direction under this Part,

from the owner of the pollutant and the person having control of the pollutant.

(3) An owner of a pollutant or a person having control of a pollutant is not liable under subsection 2 if he establishes that he took all reasonable steps to prevent the spill of the pollutant or if he establishes that the spill of the pollutant was wholly caused by,

Exception

- (a) an act of war, civil war, insurrection, an act of terrorism or an act of hostility by the government of a foreign country;



(b) a natural phenomenon of an exceptional, inevitable and irresistible character; or

(c) an act or omission with intent to cause harm by a person other than a person for whose wrongful act or omission the owner of the pollutant or the person having control of the pollutant is by law responsible,

or any combination thereof.

Qualification

(4) Subsection 3 does not relieve the owner of the pollutant or the person having control of the pollutant,

(a) from liability for loss or damage that is a direct result of neglect or default of the owner of the pollutant or the person having control of the pollutant in carrying out a duty imposed or an order or direction made under this Part; or

(b) from liability, under clause *a* of subsection 2, for cost and expense incurred or, under clause *b* of subsection 2, for all reasonable cost and expense incurred,

(i) to do everything practicable to prevent, eliminate and ameliorate the adverse effects; or

(ii) to do everything practicable to restore the natural environment,

or both.

Enforcement  
of right

(5) The right to compensation under subsection 2 may be enforced by action in a court of competent jurisdiction.

Liability

(6) Liability under subsection 2 does not depend upon fault or negligence.

Contribution

(7) In an action under this section,

(a) where the plaintiff is an owner of the pollutant or a person having control of the pollutant, the court shall determine the degree, if any, in which the plaintiff would be liable to make contribution or indemnification under subsection 8 if the plaintiff were a defendant; and

(b) where the plaintiff is not an owner or a person having control referred to in clause *a*, the court shall determine the degree, if any, in which the plaintiff caused or contributed to the loss, damage, cost or expense by fault or negligence,



Subsection 6 of the section provides that this liability does not depend on fault or negligence.



Subsection 7 of this section reduces compensation where there is contributory negligence or where the person claiming compensation is one of the responsible persons.

Subsections 8 to 12 of the section provide for contribution between persons liable to pay compensation by rules similar to the rules in *The Negligence Act*.

and the court shall reduce the compensation by the degree, if any, so determined.

(8) Where two or more persons are liable to pay compensation under this section, they are jointly and severally liable to the person suffering the loss, damage, cost or expense but as between themselves, in the absence of an express or implied contract, each is liable to make contribution to and indemnify each other in accordance with the following principles: <sup>Extent of liability</sup>

1. Where two or more persons are liable to pay compensation under this section and one or more of them caused or contributed to the loss, damage, cost or expense by fault or negligence, such one or more of them shall make contribution to and indemnify,
  - i. where one person is found at fault or negligent, any other person liable to pay compensation under this section, and
  - ii. where two or more persons are found at fault or negligent, each other and any other person liable to pay compensation under this section in the degree in which each of such two or more persons caused or contributed to the loss, damage, cost or expense by fault or negligence.
2. For the purpose of subparagraph ii of paragraph 1, if it is not practicable to determine the respective degrees in which the fault or negligence of two or more persons liable to pay compensation under this section caused or contributed to the loss, damage, cost or expense, such two or more persons shall be deemed to be equally at fault or negligent.
3. Where no person liable to pay compensation under this section caused or contributed to the loss, damage, cost or expense by fault or negligence, each of the persons liable to pay compensation is liable to make contribution to and indemnify each other in such degree as is determined to be just and equitable in the circumstances.

(9) The right to contribution or indemnification under subsection 8 may be enforced by action in a court of competent jurisdiction. <sup>Enforcement of contribution</sup>

(10) Wherever it appears that a person not already a party to an action under this section may be liable in respect of the <sup>Adding parties</sup>

loss, damage, cost or expense for which compensation is claimed, the person may be added as a party defendant to the action upon such terms as are considered just or may be made a third party to the action in the manner prescribed by the rules of practice for adding third parties.

Settlement  
and recovery  
between  
persons  
liable

(11) A person liable to pay compensation under this section may recover contribution or indemnity from any other person liable to pay compensation under this section in respect of the loss, damage, cost or expense for which the compensation is claimed by settling with the person suffering the loss, damage, cost or expense and continuing the action or commencing an action against such other person.

Amount of  
settlement

(12) A person who has settled a claim and continued or commenced an action as mentioned in subsection 11 must satisfy the court that the amount of the settlement was reasonable, and, if the court finds the amount was excessive, the court may fix the amount at which the claim should have been settled.

Limitation for  
actions for  
compensation

(13) No person is liable to an action for compensation under this section unless the action is commenced within two years from,

- (a) where the person commencing the action incurred loss or damage as a result of the spill of a pollutant, the date when the person knew or ought to have known of the loss or damage;
- (b) where the person commencing the action incurred loss or damage as a result of carrying out or attempting to carry out or neglect or default in carrying out a duty imposed or an order or direction made under this Part, the date when the person knew or ought to have known of the loss or damage; or
- (c) where the person commencing the action incurred cost and expense in respect of carrying out or attempting to carry out an order or direction made under this Part, the date when the person incurred the cost and expense.

Limitations  
for actions for  
contribution  
or indemnity

(14) Where, within the period of time prescribed by subsection 13, an action for compensation is commenced against a person liable to pay compensation under this section or a person liable to pay compensation under this section settles a claim for compensation with a person who has suffered loss, damage, cost or expense, no proceedings for contribution or indemnity against another person liable to pay compensation under this section are defeated by the operation of any Act

Subsection 13 of the section provides a time limit of two years from starting dates set out in the section for lawsuits for compensation.

Subsection 14 of the section provides for a time limit of one year in the circumstances set out in the section for lawsuits for contribution or indemnity under the section.

Section 68j authorizes a municipality or a person designated by the regulations to take action for prevention, cleanup and restoration and to obtain compensation from the responsible persons. For the purpose of such action the municipality or person may enter and do work on any property, may obtain a court order for such work and is protected against conviction in the same manner as a person carrying out a duty, order or direction under the Part.

limiting the time for the commencement of action against such other person if,

- (a) the proceedings are commenced within one year of the date of the judgment in the action or the settlement, as the case may be; and
- (b) there has been compliance with any Act requiring notice of claim against such other person.

68j—(1) Where a pollutant is spilled and causes or is likely to cause adverse effects, Action by municipality or designated persons

- (a) a municipality;
- (b) a regional municipality; and
- (c) a person or a member of a class of persons designated by the regulations,

or any one or more of them, may do everything practicable to prevent, eliminate and ameliorate the adverse effects and to restore the natural environment.

(2) A municipality or regional municipality or a person or member of a class of persons designated by the regulations acting under subsection 1 or an employee or agent of any of them so acting has the rights of a person under section 68e and, if acting in good faith and in a reasonable manner, the immunity conferred on a person by section 68h. Right of entry and immunity from prosecution

(3) A municipality or regional municipality or a person or a member of a class of persons designated by the regulations acting under subsection 1 must, Co-operation with others

- (a) co-ordinate efforts with;
- (b) make use of the expertise of; and
- (c) not impede,

a person carrying out a duty, order or direction under this Part.

(4) A municipality, a regional municipality or a person or member of a class of persons designated by the regulations has the right to compensation from the owner of the pollutant and the person having control of the pollutant for all reasonable cost and expense incurred in acting under subsection 1. Right to compensation



Enforcement

(5) The right to compensation under subsection 4 may be enforced by action in a court of competent jurisdiction.

Application  
of s. 68*i* (6-14)

(6) Where the right to compensation under subsection 4 arises, subsections 6 to 14 of section 68*i* apply with necessary modifications.

Right to  
compensation  
from Crown

68*k*.—(1) A person, other than a person referred to in subsection 2, entitled under clause *b* of subsection 2 of section 68*i* to compensation for reasonable cost and expense has the right, subject to the conditions prescribed by the regulations, to payment of such compensation from Her Majesty in right of Ontario.

Application  
of subs. 1

(2) Subsection 1 does not give a right to payment of compensation to,

- (a) the owner of the pollutant;
- (b) the person having control of the pollutant;
- (c) a person liable at law other than under this Part for loss, damage, cost or expense arising from the spill of the pollutant;
- (d) a person that has a right under a contract to payment of the reasonable cost and expense referred to in subsection 1,

or an employee or agent of any of them.

Enforcement  
of right of  
Crown

(3) The right to payment of compensation under subsection 1 may be enforced by action in a court of competent jurisdiction.

Recovery  
by Crown

(4) Where compensation has been paid under subsection 1, Her Majesty in right of Ontario has the right to recover in the place of the person to whom the compensation was paid to the extent of the amount of the payment of compensation by and any costs of Her Majesty.


Idem


(5) Her Majesty in right of Ontario is entitled under subsection 4 to all rights of recovery whether under this Part or otherwise that the person has against any other person.

Idem

(6) For the purposes of subsection 4, the payment of compensation by Her Majesty in right of Ontario under subsection 1 shall not be construed to affect the right of the person under subsection 2 of section 68*i* to compensation for reasonable cost and expense so paid by Her Majesty.

Section 68k provides for compensation from the Crown for any person entitled to compensation for reasonable cost and expense of carrying out an order under the Part. This right does not apply to the responsible persons, a person liable at law other than under the Part or a person complying with a direction of the Director with respect to disposal or use of anything affected by the spill or any employee or agent of them. Upon payment of such compensation the Crown is subrogated to the rights of the person compensated.

 Sections 68*ka* to 68*kt* establish a corporation, the Environmental Compensation Corporation, to which persons who qualify may apply for authorization of payment of compensation in respect of a spill of a pollutant. Provision is made for resolution of disputes as to amounts of such compensation. Payment is to be made by the Treasurer of Ontario out of the Consolidated Revenue Fund on the certificate of the corporation. Upon payment of such compensation, the corporation, on behalf of the Crown, is subrogated to the rights of the person compensated. An insurer is required to obtain the consent of the corporation before settling a claim in respect of a person to whom compensation has been paid in accordance with a certificate of the corporation.

The section also requires an insurer to obtain the consent of the Crown before settling a claim in respect of a person to whom compensation has been paid by the Crown under the section. 

(7) The right to compensation under subsection 4 may be enforced in a court of competent jurisdiction by Her Majesty in right of Ontario in Her Majesty's name or in the name of the person to whom the compensation has been paid. Enforcement

(8) A person that fails to comply with or contravenes a condition prescribed by the regulations that must be complied with before payment of compensation under subsection 1 is disentitled to the payment. Disentitlement

(9) Where a person fails to comply with or contravenes a condition prescribed by the regulations that attaches to the payment of compensation under subsection 1, Her Majesty in right of Ontario has the right to recover the amount of the compensation paid and the right may be enforced in a court of competent jurisdiction. Repayment



(10) An insurer as defined in *The Insurance Act* only acquires its subrogated right of recovery under any law, including sections 126 and 240 of *The Insurance Act*, or the provisions of any contract of insurance in respect of a person to whom a payment of compensation has been made under subsection 1 when Her Majesty in right of Ontario consents in writing to a settlement in accordance with which the right of recovery is discharged or to the bringing of an action to enforce the right of recovery. Right of insurer under R.S.O. 1970, c. 224

(11) If an insurer referred to in subsection 10 purports to make a settlement or brings an action without the consent of Her Majesty, the insurer is liable to Her Majesty in right of Ontario in an amount equal to the amount of the payment of compensation under subsection 1 to the extent of the recovery under the judgment with respect to which the action was brought or the amount paid to the insurer in accordance with the settlement. Where consent not obtained

(12) A release in furtherance of or in accordance with a purported settlement made without the consent of Her Majesty in right of Ontario is a nullity. Effect of release

(13) Her Majesty shall not unreasonably withhold the consent referred to in subsections 10, 11 and 12, but Her Majesty may attach conditions to the consent and may revoke the consent for breach of such a condition. Withholding of consent

(14) The provisions of this section apply notwithstanding any other law or the provisions of any contract of insurance. Conflict

68ka. In this section and in sections 68kb to 68kt,

Interpretation

(a) "corporation" means the Environmental Compensation Corporation established by section 68kj;

(b) “director” means director of the corporation;

(c) “payment” means payment referred to in subsection 1 of section 68*kb* in respect of a spill of a pollutant.

Corporation  
to authorize  
payment

68*kb*.—(1) Upon application, the corporation shall authorize payment in respect of a spill of a pollutant to,

- (a) any person who has incurred loss or damage as a direct result of,
  - (i) the spill of a pollutant that causes or is likely to cause adverse effects,
  - (ii) the exercise of any authority under subsection 1 of section 68*j* or the carrying out of or attempting to carry out a duty imposed or an order or direction made under this Part, or
  - (iii) neglect or default in carrying out a duty imposed or an order or direction made under this Part;
- (b) any person who has incurred reasonable cost and expense in respect of carrying out or attempting to carry out an order or direction under this Part; and
- (c) the owner of the pollutant and the person having control of the pollutant who are liable to pay compensation under this Part,

if such person, owner of the pollutant or person having control of the pollutant is a member of a class prescribed by the regulations and meets the conditions prescribed by the regulations.

Amount

(2) The amount of the payment that the corporation shall authorize under subsection 1 shall be calculated in the manner prescribed by the regulations,

- (a) generally;
- (b) in respect of the class of which the person, the owner of the pollutant or the person having control of the pollutant is a member; or
- (c) in respect of a class prescribed by the regulations,
  - (i) of spills of pollutants,
  - (ii) of loss or damage, or
  - (iii) of cost or expense.

(3) The corporation shall not authorize payment under subsection 1 in excess of a limit prescribed by the regulations or in excess of a limit calculated in the manner prescribed by the regulations and, in either case,

- (a) generally;
- (b) in respect of the class of which the person, the owner of the pollutant or the person having control of the pollutant is a member; or
- (c) in respect of a class prescribed by the regulations,
  - (i) of spills of pollutants,
  - (ii) of loss or damage, or
  - (iii) of cost or expense.

68kc.—(1) The corporation shall not authorize a payment to a person who fails to comply with or contravenes a condition prescribed by the regulations that must be complied with before the payment. Limit  
Failure to comply with condition precedent

(2) Where a person fails to comply with or contravenes a condition prescribed by the regulations that attaches to a payment, the corporation has the right to recover on behalf of Her Majesty in right of Ontario the amount of the payment and the costs of the corporation, and the right may be enforced by action in a court of competent jurisdiction. Failure to comply with condition subsequent

68kd. In assessing the amount of a payment, the corporation, except as may be prescribed by the regulations, shall take into consideration any benefit, compensation or indemnity payable to the person from any source. Matters to be considered by corporation

68ke.—(1) The corporation shall make a proposal in respect of payment in connection with each application for payment and shall give notice of its proposal, together with written reasons therefor, to the applicant. Proposal re payment of compensation

(2) The corporation may cause an investigation and report to be made in respect of the performance of its function and the exercise of its powers in any matter. Investigations

68kf. *The Statutory Powers Procedure Act, 1971* does not apply to proceedings of or proposals in respect of payment by the corporation under this Part or the regulations. 1971, c. 47  
not to apply

68kg.—(1) An applicant for payment may accept a proposal by the corporation by notice in writing given to the corporation Rights of applicant



within twenty days after the applicant is given notice of the proposal or, if the applicant is dissatisfied with the proposal, the applicant may apply within the twenty days to the High Court by originating notice for the determination of the right of the applicant to payment and the amount of the payment, and on such application the court, in accordance with the rules of court, may determine the right to payment and the amount or may direct the trial of the issue.

Minister  
entitled to  
be heard

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the hearing of an application by the High Court under subsection 1 or any proceeding or appeal with respect thereto.

Extension  
of time for  
acceptance  
of proposal

(3) The corporation may extend the time for accepting a proposal by the corporation under subsection 1, either before or after the expiration of the time, where the corporation is satisfied that there are reasonable grounds for applying for the extension.

Extension  
of time for  
application to  
High Court

(4) The High Court may extend the time for applying to the High Court under subsection 1, either before or after the expiration of the time, where the High Court is satisfied that there are *prima facie* grounds for making a determination in favour of the applicant following the hearing or the trial of the issue under subsection 1 and that there are reasonable grounds for applying for the extension, and the High Court may give such directions as it considers proper consequent upon the extension.

Payment by  
Treasurer of  
Ontario

68kh.—(1) Where, in accordance with this Part and the regulations, an applicant has accepted a proposal by the corporation or has applied to the High Court and it has been finally determined that the applicant is entitled to payment and the amount of the payment has been finally determined, the corporation shall certify to the Treasurer of Ontario in the form prescribed by the regulations the amount of the payment and the person to whom it is payable and, subject to subsection 2, the Treasurer shall pay such amount to the person out of the Consolidated Revenue Fund.

Limitation

(2) The Treasurer of Ontario shall make payments under subsection 1 only during such period of time and subject to such conditions as may be prescribed by the regulations.

Recovery by  
corporation

68ki.—(1) Where a payment is made in accordance with a certificate of the corporation, the corporation has the right on behalf of Her Majesty in right of Ontario to recover in the place of the person to whom the payment was made to the extent of the payment and any costs of the corporation.

Idem

(2) The corporation is entitled under subsection 1 to all rights of recovery whether under this Part or otherwise that the person has against any other person.

(3) The payment of an amount to a person in accordance with a certificate of the corporation shall not be construed to affect the right of the person to compensation under this Part or otherwise at law. Right to recovery

(4) The right of the corporation to recover under subsection 1 may be enforced in a court of competent jurisdiction by the corporation in its name or in the name of the person to whom the payment has been made. Enforcement

(5) An insurer as defined in *The Insurance Act* only acquires its subrogated right of recovery under any law, including sections 126 and 240 of *The Insurance Act*, or the provisions of any contract of insurance in respect of a person to whom a payment has been made in accordance with a certificate of the corporation when the corporation gives its consent in writing to a settlement in accordance with which the right of recovery is discharged or to the bringing of an action to enforce the right of recovery. Right of insurer under R.S.O. 1970, c. 224

(6) If an insurer referred to in subsection 5 purports to make a settlement or brings an action without the consent of the corporation, the insurer is liable to the corporation in an amount equal to the amount of the payment made in accordance with the certificate of the corporation to the extent of the recovery under the judgment with respect to which the action was brought or the amount paid to the insurer in accordance with the settlement. Where consent not obtained

(7) A release in furtherance of or in accordance with a purported settlement made without the consent of the corporation is a nullity. Effect of release

(8) The corporation shall not unreasonably withhold the consent referred to in subsections 5, 6 and 7 but the corporation may attach conditions to the consent and may revoke the consent for breach of such a condition. Withholding of consent

(9) The provisions of this section apply notwithstanding any law or the provisions of any contract of insurance. Conflict

68kj.—(1) There is hereby established a corporation without share capital with the name “Environmental Compensation Corporation”. Environmental Compensation Corporation

(2) The corporation shall be composed of not fewer than three directors who shall be appointed by the Lieutenant Governor in Council. Appointment of directors

(3) The term of office of a director of the corporation is three years or until his successor is appointed and a director is eligible for reappointment. Term of office



Chairman	(4) The Lieutenant Governor in Council shall designate one of the directors as chairman.
Quorum	(5) A majority of the directors of the corporation constitutes a quorum.
Conduct of business by less than quorum	(6) The chairman may, in writing, authorize less than a quorum of the directors of the corporation to exercise the powers of the corporation in any matter specified by the chairman.
Management	68kk.—(1) The affairs of the corporation are under the management of its directors.
By-laws	(2) The directors may make by-laws regulating the proceedings of the corporation, governing the exercise of its powers and generally for the conduct and management of the affairs of the corporation.
By-laws by Lieutenant Governor in Council	(3) Where the Minister requests in writing that the corporation make, amend or revoke a by-law and the corporation has failed to do so, the Lieutenant Governor in Council may make the by-law, amendment or revocation specified in the request.
Powers	68kl. The powers of the corporation are, <ul style="list-style-type: none"> <li>(a) to receive and assess applications for payment in accordance with sections 68ka to 68kt and the regulations;</li> <li>(b) to authorize payments in accordance with sections 68ka to 68kt and the regulations;</li> <li>(c) to take action or commence proceedings in any case where the corporation is authorized to do so by or under any Act or law; and</li> <li>(d) to carry out such other duties as may be prescribed by the regulations.</li> </ul>
Remuneration of directors	68km. The corporation shall pay those of its directors who are not officers in the public service of the Province of Ontario such remuneration and expense allowance as may be fixed from time to time by the Lieutenant Governor in Council.
Agency	68kn.—(1) The corporation is an agency of the Crown.
Application of R.S.O. 1970, c. 89; 1976, c. 66	(2) <i>The Corporations Act</i> and <i>The Corporations Information Act</i> , 1976 do not apply to the corporation.
Technical assistance	68ko. The corporation may engage on a temporary basis the services of persons having technical or specialized knowledge to

advise and assist the corporation in performing its function and exercising its powers and, with the approval of the Lieutenant Governor in Council, the corporation may fix and pay the remuneration and expenses of such persons.

68kp.—(1) The corporation may appoint inspectors to make investigations in respect of spills of pollutants in order to assist the corporation in the performance of its function and the exercise of its powers and to carry out such additional duties as may be prescribed by the regulations. Inspectors

(2) It is the duty of an inspector appointed by the corporation, Duties

- (a) to make investigations in respect of spills of pollutants in order to assist the corporation in assessing applications for payment received by the corporation;
- (b) to make such other investigations in respect of spills of pollutants as may be necessary or advisable to assist the corporation to perform its function and to exercise its powers; and
- (c) to carry out such additional duties as may be prescribed by the regulations.

68kq.—(1) Except as to information in respect of a spill of a pollutant, every director and every employee of the corporation and every person engaged or appointed by the corporation shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties or employment under this Act and shall not communicate any such matter to any other person except, Matters confidential

- (a) in connection with the administration of this Act and the regulations or in connection with any proceeding under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) Except in a proceeding under this Act or the regulations, no person to whom subsection 1 applies shall be required to give testimony, other than testimony in respect of a spill of a pollutant, in any civil suit or proceeding with regard to information obtained by him in the course of his duties or employment. Testimony

68kr. Section 96a (which provides protection from personal liability) applies to the directors and the employees of the corpora- Application of s. 96a

tion and to persons engaged or appointed by the corporation in the same manner as it applies to persons described in that section.

Audit

68ks. The accounts and financial transactions of the corporation shall be audited annually by the Provincial Auditor, and reports of the audit shall be made to the corporation and to the Minister.

Annual  
report

68kt.—(1) The corporation shall make a report annually to the Minister upon the affairs of the corporation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Other  
reports

(2) The corporation, in addition to making an annual report, shall make to the Minister such other reports on its affairs and operations as the Minister may require.

Right of  
recourse

68l. Except as expressly provided in this Part, nothing in this Part limits or restricts any right or remedy that any person may have against another person.

Limitation

68m. The liability under this Part of farmers who are owners of pollutants or persons having control of pollutants and who are members of a class prescribed by the regulations is limited to the amount prescribed by the regulations or the amount calculated in the manner prescribed by the regulations in respect of such farmers.

s. 94,  
amended

3. Section 94 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 106, section 31, 1973, chapter 94, section 11 and 1976, chapter 49, section 1, is further amended by adding thereto the following subsection:

Regulations  
relating to  
Part VIII-A

(6a) The Lieutenant Governor in Council may make regulations relating to Part VIII-A,

- (a) designating persons and classes of persons for the purposes of subsection 1 of section 68j and prescribing limitations that shall attach to any such designation;
- (b) prescribing conditions that must be complied with by applicants for payment of compensation under subsection 1 of section 68k before payment of the compensation;
- (c) prescribing conditions that shall attach to the payment of compensation under subsection 1 of section 68k;

Section 68<sup>l</sup> states that, except as expressly provided in the Part, the Part does not affect any person's rights or remedies against any other person.



Section 68<sup>m</sup> limits the liability of farmers under the Part.



SECTION 3. The amendment provides for regulations related to new Part VIII-A.



SECTION 4. Subsection 3 is added to section 95 of the Act to clarify the authority to define classes under the Act or the regulations.

SECTION 5. Subsection 3 of section 32 of *The Ontario Water Resources Act* requires that notice be given to the Minister of any spill into or that may pollute water or a watercourse. Subsection 4 provides a penalty for failure to give the notice.

The repeal of the subsection is related to the enactment of Part VIII-A of *The Environmental Protection Act, 1971* by this Bill.

- (d) designating discharges of pollutants and locations of discharges for the purposes of subsection 2 of section 68a, but no discharge of pollutant or location of discharge shall be designated that is in accordance with an approval, licence, permit, order or regulation under this Act or an approval, direction, notice, order, regulation or report under *The Ontario Water Resources Act* or a licence, order, permit or regulation under *The Pesticides Act, 1973*; R.S.O. 1970, c. 332  
1973, c. 25
  - (e) classifying spills and exempting any spill or any class of spill from the application of Part VIII-A or any section or portion of Part VIII-A and attaching conditions to any such exemption;
  -  (f) prescribing any matter required or authorized by Part VIII-A to be, or referred to in those sections as, prescribed by the regulations;
  - (g) prescribing classes of or in respect of any matter that is or may be prescribed under clause f;
  - (h) limiting the application of any regulation under clause f to any one or more of the classes prescribed under clause g;
  - (i) classifying insurers, as defined in *The Insurance Act*, for the purposes of Part VIII-A and exempting any class of insurers from the application of Part VIII-A or any section or portion of Part VIII-A and attaching conditions to any such exemption.
4. Section 95 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 125, section 2, is further amended by adding thereto the following subsection: s. 95,  
amended
- (3) Any class under this Act or the regulations may be defined with respect to any attribute, quality or characteristic or combination thereof and may be defined to include within the class any specified member or members whether or not with the same attributes, qualities or characteristics.  Classes
5. Subsections 3 and 4 of section 32 of *The Ontario Water Resources Act*, being chapter 332 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed. R.S.O. 1970, c. 332, s. 32 (3, 4),  
repealed
6. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment<sup>f</sup>
7. The short title of this Act is *The Environmental Protection Amendment Act, 1979*. Short title

## BILL 24

---

An Act to amend  
The Environmental Protection  
Act, 1971

---

*1st Reading*

March 27th, 1979

*2nd Reading*

May 15th, 1979

*3rd Reading*

---

THE HON. H. C. PARROTT  
Minister of the Environment

---

*(Reprinted as amended by the  
Resources Development Committee)*

3  
**BILL 24**

3RD SESSION, 31ST LEGISLATURE, <sup>7</sup>ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend  
The Environmental Protection Act, 1971**

THE HON. H. C. PARROTT  
Minister of the Environment



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO





BILL 24

1979

## An Act to amend The Environmental Protection Act, 1971

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 15 of *The Environmental Protection Act, 1971*, being 1971, c. 86, chapter 86, as amended by the Statutes of Ontario, 1972, <sup>s. 15,</sup> repealed chapter 106, section 4, is repealed.
2. The said Act is amended by adding thereto the following Part: Part VIII-A,  
(ss. 68a-68l),  
enacted

### PART VIII-A

#### SPILLS

68a.—(1) In this Part,

Interpre-  
tation

- (a) “adverse effects” means the effects, or any of the effects, mentioned in clauses *a* to *h* of subsection 1 of section 68b;
- (b) “discharge”, when used as a verb, includes add, deposit, emit or leak and, when used as a noun, includes addition, deposit, emission or leak;
- (c) “municipality” means the corporation of a county, city, town, village, township or improvement district;
- (d) “owner of the pollutant” means the owner of the pollutant immediately before the first discharge of the pollutant, whether into the natural environment or not, in a quantity or with a quality abnormal at the location where the discharge occurs, and “owner of a pollutant” has a corresponding meaning;
- (e) “person having control of a pollutant” means the person and his employee or agent, if any, having the

charge, management or control of a pollutant immediately before the first discharge of the pollutant, whether into the natural environment or not, in a quantity or with a quality abnormal at the location where the discharge occurs, and "person having control of the pollutant" has a corresponding meaning;

- (f) "pollutant" means a contaminant other than heat, sound, vibration or radiation, and includes any substance from which a pollutant is derived;
- (g) "practicable" means capable of being effected or accomplished;
- (h) "regional municipality" means the corporation of a metropolitan area, regional area or district area;
- (i) "restore the natural environment", when used with reference to a spill of a pollutant, means restore all forms of life, physical conditions, the natural environment and things existing immediately before the spill of the pollutant that are affected or that may reasonably be expected to be affected by the pollutant, and "restoration of the natural environment", when used with reference to a spill of a pollutant, has a corresponding meaning;
- (j) "spill", when used with reference to a pollutant, means a discharge,
  - (i) into the natural environment,
  - (ii) from or out of a structure, vehicle or other container, and
  - (iii) that is abnormal in quality or quantity in light of all the circumstances of the discharge,
 and when used as a verb has a corresponding meaning;
- (k) "substance" means any solid, liquid or gas, or any combination of any of them.

Abnormal  
discharge

(2) A discharge of a pollutant designated by the regulations at a location designated by the regulations shall be deemed to be in a quantity or with a quality abnormal at the location.

Practicable

(3) In determining what is practicable for the purposes of this Part, regard shall be had to the technical, physical and financial resources that are or can reasonably be made available.

(4) This Part does not apply to the disposal of animal wastes in accordance with normal farming practices. Exception re farming

(5) A reference in this Part, other than in section 68*b*, to an owner of a pollutant or a person having control of a pollutant includes a successor, assignee, executor or administrator of the owner of the pollutant or the person having control of the pollutant. Successors, etc.

68*b*.—(1) Every person having control of a pollutant that is spilled and every person who spills or causes or permits a spill of a pollutant that, Notice to Ministry and others

- (*a*) causes or is likely to cause impairment of the quality of the natural environment for any use that can be made of it;
- (*b*) causes or is likely to cause injury or damage to property or to plant or animal life;
- (*c*) causes or is likely to cause harm or material discomfort to any person;
- (*d*) adversely affects or is likely to adversely affect the health of any person;
- (*e*) impairs or is likely to impair the safety of any person;
- (*f*) renders or is likely to render any property or plant or animal life unfit for use by man;
- (*g*) causes or is likely to cause loss of enjoyment of normal use of property; or
- (*h*) interferes or is likely to interfere with the normal conduct of business,

shall forthwith notify,

- (*i*) the Ministry;
- (*j*) the municipality or, if the spill occurred within the boundaries of a regional municipality, the regional municipality within the boundaries of which the spill occurred;
- (*k*) where the person is not the owner of the pollutant and knows or is able to ascertain readily the identity of the owner of the pollutant, the owner of the pollutant; and
- (*l*) where the person is not the person having control of the pollutant and knows or is able to ascertain

readily the identity of the person having control of the pollutant, the person having control of the pollutant,

of the spill, of the circumstances thereof, and of the action that the person has taken or intends to take with respect thereto.

When duty  
effective

(2) The duty imposed by subsection 1 comes into force in respect of each of the person having control of the pollutant and the person who spills or causes or permits the spill of the pollutant immediately he knows or ought to know that the pollutant is spilled and is causing or is likely to cause adverse effects.

Additional  
information  
to Director

(3) The person required by subsection 1 to give notice and the owner of the pollutant shall give to the Director such additional information in respect of the pollutant, the source of the pollutant and the spill of the pollutant as may be required by the Director.

Notice to  
Ministry  
by person  
investigating

(4) A member of a police force or an employee of a municipality or other public authority who is informed of or who investigates the spill of a pollutant shall forthwith notify the Ministry of the spill of the pollutant unless he has reasonable grounds for believing that such notice has been given to the Ministry by another person.

Duty  
to act

68c.—(1) The owner of a pollutant and the person having control of a pollutant that is spilled and that causes or is likely to cause adverse effects shall forthwith do everything practicable to prevent, eliminate and ameliorate the adverse effects and to restore the natural environment.

When duty  
effective

(2) The duty imposed by subsection 1 comes into force in respect of each of the owner of the pollutant and the person having control of the pollutant immediately the owner or person, as the case may be, knows or ought to know that the pollutant is spilled and is causing or is likely to cause adverse effects.

Directions by  
Minister

68d.—(1) Where a pollutant is spilled and the Minister is of the opinion that there are or are likely to be adverse effects as a result of the spill, the Minister, in the circumstances specified in subsection 2, may give directions in accordance with subsection 3 to the employees and agents of the Ministry.

Where  
Minister  
may give  
directions

(2) The Minister may give directions in accordance with subsection 3 where the Minister is of the opinion that it is in the best interest of the public to do so and,

- (a) the Minister is of the opinion that neither the person having control of the pollutant nor the owner of the pollutant will carry out promptly the duty imposed by section 68c;
- (b) the Minister is of the opinion that the person having control of the pollutant or the owner of the pollutant cannot be readily identified or located and that as a result the duty imposed by section 68c will not be carried out promptly; or
- (c) the person having control of the pollutant or the owner of the pollutant requests the assistance of the Minister in order to carry out the duty imposed by section 68c.

(3) Under this section, the Minister may direct the employees and agents of the Ministry to do everything practicable or to take such action as may be specified in the directions in respect of the prevention, elimination and amelioration of the adverse effects and the restoration of the natural environment. Contents of directions

(4) The Minister may give directions amending or revoking directions given under this section. Further directions

(5) No Act, regulation, by-law, order, permit, approval or licence bars the employees and agents of the Ministry from acting in accordance with directions given by the Minister under this section. Employees and agents

(6) The Minister need not hold or afford to any person an opportunity for a hearing before giving directions under this section. Hearing

68e.—(1) For the purpose of carrying out any duty imposed or order or direction made or given under this Part, any person subject to the duty or to whom the order or direction is made or given and his employees and agents, may enter and have access through or over any building, structure, vehicle, land, water or air and may construct structures and use machinery, structures, materials, and equipment therein or thereon and may remove therefrom the pollutant or any matter, thing, plant or animal or any part of the natural environment that is affected or that may reasonably be expected to be affected by the pollutant. Entry and removal

(2) The rights set out in subsection 1 may be enforced by application without notice to a judge of the Supreme Court or a local judge of the High Court by a person, employee or agent referred to in subsection 1. Enforcement of right of entry, etc.



Order by  
judge

(3) Where the judge or local judge is satisfied, on an application under subsection 2, that there is reasonable ground for believing that it is necessary,

- (a) to enter and have access through or over any building, structure, vehicle, land, water or air;
- (b) to construct structures or use machinery, structures, materials or equipment therein or thereon; or
- (c) to remove the pollutant or any matter, thing, plant or animal or any part of the natural environment that is affected or that may reasonably be expected to be affected by the pollutant,

for the purpose of carrying out any duty imposed or order or direction made or given under this Part, the judge or local judge may issue an order authorizing the person and his employees and agents or any one or more of them to act as mentioned in clauses *a*, *b* and *c*, or any of them, but every such action shall be taken between sunrise and sunset unless the judge or local judge authorizes them or any of them to act at another time.

Disposal of  
pollutant,  
etc.

68f.—(1) No person, employee or agent exercising any authority under subsection 1 of section 68j or carrying out any duty imposed or order or direction made or given under this Part shall dispose of or use any pollutant, or any matter, thing, plant or animal or any part of the natural environment that is affected or that may reasonably be expected to be affected by the pollutant except,

- (a) in accordance with an order of or direction by the Minister under this or any other Act;
- (b) in accordance with a direction by or the approval of the Director, but such a direction or approval shall not be contrary to the regulations; or
- (c) in accordance with an approval, order, requirement or direction by the Director under any other Part of this Act or by a Director under any other Act administered by the Minister, but such an approval, order, requirement or direction shall not be contrary to the regulations.

Direction or  
approval by  
Director

(2) The Director may give to any person, employee or agent mentioned in subsection 1, and may amend or revoke, a direction or approval mentioned in clause *b* of subsection 1 and may do so notwithstanding the terms of or conditions in a certificate of approval issued under Part V in respect of a waste disposal site.

(3) The Director may attach such conditions as he con- <sup>Conditions</sup>  
siders necessary to an approval mentioned in clause *b* of  
subsection 1.

(4) The Director need not hold or afford to any person <sup>Hearing</sup>  
an opportunity for a hearing before giving, amending or  
revoking a direction or approval referred to in clause *b* of  
subsection 1.

68g.—(1) Where a pollutant is spilled and the Minister is <sup>Orders by  
Minister</sup>  
of the opinion that there are or are likely to be adverse  
effects and that it is in the best interest of the public to  
make an order under this section, the Minister may make an  
order directed to one or more of the following:

1. The owner of the pollutant.
2. The person having control of the pollutant.
3. The owner or the person having the charge, manage-  
ment or control of any real property or personal  
property that is affected or that may reasonably be  
expected to be affected by the pollutant.
4. The municipality or regional municipality, or both  
of them, within whose boundaries the spill occurred.
5. Any municipality or regional municipality contig-  
uous to the municipality or regional municipality  
within whose boundaries the spill occurred.
6. Any municipality or regional municipality that is  
affected or that may reasonably be expected to be  
affected by the spill of the pollutant.
7. Any public authority.
8. Any person who is or may be adversely affected  
by the pollutant or whose assistance is necessary,  
in the opinion of the Minister, to prevent, eliminate  
or ameliorate the adverse effects or to restore the  
natural environment.

(2) In an order under this section, the Minister may require <sup>Content of  
orders</sup>  
the doing of everything practicable or the taking of such  
action as may be specified in the order in respect of the  
prevention, elimination and amelioration of the adverse



effects and the restoration of the natural environment within such period or periods of time as may be specified in the order.

Idem

(3) In an order under this section, the Minister may require the doing of everything practicable or the taking of such action as may be specified in the order in respect of the use or disposal of,

(a) the pollutant; or

(b) any matter, thing, plant or animal or any part of the natural environment affected or that may reasonably be expected to be affected by the pollutant,

within such period or periods of time as may be specified in the order.

Amendment  
or revocation  
of order

(4) The Minister by an order may amend or revoke an order made under this section.

Effect of  
any Act,  
regulation,  
etc.

(5) The Minister may make an order under this section notwithstanding any Act, regulation, by-law, order, permit, approval or licence.

Hearing

(6) The Minister need not hold or afford to any person an opportunity for a hearing before making an order under this section.

Notice  
of order

(7) The Minister may direct, orally or in writing, a representative of the Ministry to give a written notice setting out an order of the Minister made orally or in writing under this section.

Effect of  
notice

(8) An order of the Minister set out in a notice under subsection 7 is for all purposes an order of the Minister made under this section.

Service of  
order or  
notice

(9) Where an order under this section or a notice under subsection 7 that sets out an order is given to an employee or agent of an employer or principal named in the order, the order shall be deemed to be given to the employer or principal.

Writing  
required

(10) An order under this section is not effective unless it is set out in writing or is set out in a notice referred to in subsection 7.

68*h*. A person that in good faith and in a reasonable manner, in carrying out or attempting to carry out,

Effect of compliance with duty, or order, etc.

- (a) a duty imposed by this Part; or
- (b) an order or direction by the Minister or a direction or approval by the Director under this Part,

takes or refrains from taking any action shall not be convicted of an offence in respect of such taking or refraining from taking of action.

68*i*.—(1) In this section, “loss or damage” includes personal injury, loss of life, loss of use or enjoyment of property and pecuniary loss, including loss of income.

Interpretation

(2) Her Majesty in right of Ontario or in right of Canada or any other person has the right to compensation,

Right to compensation

- (a) for loss or damage incurred as a direct result of,
  - (i) the spill of a pollutant that causes or is likely to cause adverse effects,
  - (ii) the exercise of any authority under subsection 1 of section 68*j* or the carrying out of or attempting to carry out a duty imposed or an order or direction made under this Part, or
  - (iii) neglect or default in carrying out a duty imposed or an order or direction made under this Part;

- (b) for all reasonable cost and expense incurred in respect of carrying out or attempting to carry out an order or direction under this Part,

from the owner of the pollutant and the person having control of the pollutant.

(3) An owner of a pollutant or a person having control of a pollutant is not liable under subsection 2 if he establishes that he took all reasonable steps to prevent the spill of the pollutant or if he establishes that the spill of the pollutant was wholly caused by,

Exception

- (a) an act of war, civil war, insurrection, an act of terrorism or an act of hostility by the government of a foreign country;

- (b) a natural phenomenon of an exceptional, inevitable and irresistible character; or
- (c) an act or omission with intent to cause harm by a person other than a person for whose wrongful act or omission the owner of the pollutant or the person having control of the pollutant is by law responsible,

or any combination thereof.

Qualification

(4) Subsection 3 does not relieve the owner of the pollutant or the person having control of the pollutant,

- (a) from liability for loss or damage that is a direct result of neglect or default of the owner of the pollutant or the person having control of the pollutant in carrying out a duty imposed or an order or direction made under this Part; or
- (b) from liability, under clause *a* of subsection 2, for cost and expense incurred or, under clause *b* of subsection 2, for all reasonable cost and expense incurred,
  - (i) to do everything practicable to prevent, eliminate and ameliorate the adverse effects; or
  - (ii) to do everything practicable to restore the natural environment,

or both.

Enforcement of right

(5) The right to compensation under subsection 2 may be enforced by action in a court of competent jurisdiction.

Liability

(6) Liability under subsection 2 does not depend upon fault or negligence.

Contribution

(7) In an action under this section,

- (a) where the plaintiff is an owner of the pollutant or a person having control of the pollutant, the court shall determine the degree, if any, in which the plaintiff would be liable to make contribution or indemnification under subsection 8 if the plaintiff were a defendant; and
- (b) where the plaintiff is not an owner or a person having control referred to in clause *a*, the court shall determine the degree, if any, in which the plaintiff caused or contributed to the loss, damage, cost or expense by fault or negligence,

and the court shall reduce the compensation by the degree, if any, so determined.

(8) Where two or more persons are liable to pay compensation under this section, they are jointly and severally liable to the person suffering the loss, damage, cost or expense but as between themselves, in the absence of an express or implied contract, each is liable to make contribution to and indemnify each other in accordance with the following principles:

Extent of liability

1. Where two or more persons are liable to pay compensation under this section and one or more of them caused or contributed to the loss, damage, cost or expense by fault or negligence, such one or more of them shall make contribution to and indemnify,
  - i. where one person is found at fault or negligent, any other person liable to pay compensation under this section, and
  - ii. where two or more persons are found at fault or negligent, each other and any other person liable to pay compensation under this section in the degree in which each of such two or more persons caused or contributed to the loss, damage, cost or expense by fault or negligence.
2. For the purpose of subparagraph ii of paragraph 1, if it is not practicable to determine the respective degrees in which the fault or negligence of two or more persons liable to pay compensation under this section caused or contributed to the loss, damage, cost or expense, such two or more persons shall be deemed to be equally at fault or negligent.
3. Where no person liable to pay compensation under this section caused or contributed to the loss, damage, cost or expense by fault or negligence, each of the persons liable to pay compensation is liable to make contribution to and indemnify each other in such degree as is determined to be just and equitable in the circumstances.

(9) The right to contribution or indemnification under subsection 8 may be enforced by action in a court of competent jurisdiction.

Enforcement of contribution

(10) Wherever it appears that a person not already a party to an action under this section may be liable in respect of the

Adding parties

loss, damage, cost or expense for which compensation is claimed, the person may be added as a party defendant to the action upon such terms as are considered just or may be made a third party to the action in the manner prescribed by the rules of practice for adding third parties.

Settlement  
and recovery  
between  
persons  
liable

(11) A person liable to pay compensation under this section may recover contribution or indemnity from any other person liable to pay compensation under this section in respect of the loss, damage, cost or expense for which the compensation is claimed by settling with the person suffering the loss, damage, cost or expense and continuing the action or commencing an action against such other person.

Amount of  
settlement

(12) A person who has settled a claim and continued or commenced an action as mentioned in subsection 11 must satisfy the court that the amount of the settlement was reasonable, and, if the court finds the amount was excessive, the court may fix the amount at which the claim should have been settled.

Limitation for  
actions for  
compensation

(13) No person is liable to an action for compensation under this section unless the action is commenced within two years from,

- (a) where the person commencing the action incurred loss or damage as a result of the spill of a pollutant, the date when the person knew or ought to have known of the loss or damage;
- (b) where the person commencing the action incurred loss or damage as a result of carrying out or attempting to carry out or neglect or default in carrying out a duty imposed or an order or direction made under this Part, the date when the person knew or ought to have known of the loss or damage; or
- (c) where the person commencing the action incurred cost and expense in respect of carrying out or attempting to carry out an order or direction made under this Part, the date when the person incurred the cost and expense.

Limitations  
for actions for  
contribution  
or indemnity

(14) Where, within the period of time prescribed by subsection 13, an action for compensation is commenced against a person liable to pay compensation under this section or a person liable to pay compensation under this section settles a claim for compensation with a person who has suffered loss, damage, cost or expense, no proceedings for contribution or indemnity against another person liable to pay compensation under this section are defeated by the operation of any Act



limiting the time for the commencement of action against such other person if,

- (a) the proceedings are commenced within one year of the date of the judgment in the action or the settlement, as the case may be; and
- (b) there has been compliance with any Act requiring notice of claim against such other person.

68j—(1) Where a pollutant is spilled and causes or is likely to cause adverse effects, Action by municipality or designated persons

- (a) a municipality;
- (b) a regional municipality; and
- (c) a person or a member of a class of persons designated by the regulations,

or any one or more of them, may do everything practicable to prevent, eliminate and ameliorate the adverse effects and to restore the natural environment.

(2) A municipality or regional municipality or a person or member of a class of persons designated by the regulations acting under subsection 1 or an employee or agent of any of them so acting has the rights of a person under section 68e and, if acting in good faith and in a reasonable manner, the immunity conferred on a person by section 68h. Right of entry and immunity from prosecution

(3) A municipality or regional municipality or a person or a member of a class of persons designated by the regulations acting under subsection 1 must, Co-operation with others

- (a) co-ordinate efforts with;
- (b) make use of the expertise of; and
- (c) not impede,

a person carrying out a duty, order or direction under this Part.

(4) A municipality, a regional municipality or a person or member of a class of persons designated by the regulations has the right to compensation from the owner of the pollutant and the person having control of the pollutant for all reasonable cost and expense incurred in acting under subsection 1. Right to compensation

Enforcement

(5) The right to compensation under subsection 4 may be enforced by action in a court of competent jurisdiction.

Application  
of s. 68*i* (6-14)

(6) Where the right to compensation under subsection 4 arises, subsections 6 to 14 of section 68*i* apply with necessary modifications.

Right to  
compensation  
from Crown

68*k*.—(1) A person, other than a person referred to in subsection 2, entitled under clause *b* of subsection 2 of section 68*i* to compensation for reasonable cost and expense has the right, subject to the conditions prescribed by the regulations, to payment of such compensation from Her Majesty in right of Ontario.

Application  
of subs. 1

(2) Subsection 1 does not give a right to payment of compensation to,

- (a) the owner of the pollutant;
- (b) the person having control of the pollutant;
- (c) a person liable at law other than under this Part for loss, damage, cost or expense arising from the spill of the pollutant;
- (d) a person that has a right under a contract to payment of the reasonable cost and expense referred to in subsection 1,

or an employee or agent of any of them.

Enforcement  
of right

(3) The right to payment of compensation under subsection 1 may be enforced by action in a court of competent jurisdiction.

Recovery  
by Crown

(4) Where compensation has been paid under subsection 1, Her Majesty in right of Ontario has the right to recover in the place of the person to whom the compensation was paid to the extent of the amount of the payment of compensation by and any costs of Her Majesty.

Idem

(5) Her Majesty in right of Ontario is entitled under subsection 4 to all rights of recovery whether under this Part or otherwise that the person has against any other person.

Idem

(6) For the purposes of subsection 4, the payment of compensation by Her Majesty in right of Ontario under subsection 1 shall not be construed to affect the right of the person under subsection 2 of section 68*i* to compensation for reasonable cost and expense so paid by Her Majesty.

(7) The right to compensation under subsection 4 may be enforced in a court of competent jurisdiction by Her Majesty in right of Ontario in Her Majesty's name or in the name of the person to whom the compensation has been paid. Enforcement

(8) A person that fails to comply with or contravenes a condition prescribed by the regulations that must be complied with before payment of compensation under subsection 1 is disentitled to the payment. Disentitlement

(9) Where a person fails to comply with or contravenes a condition prescribed by the regulations that attaches to the payment of compensation under subsection 1, Her Majesty in right of Ontario has the right to recover the amount of the compensation paid and the right may be enforced in a court of competent jurisdiction. Repayment

(10) An insurer as defined in *The Insurance Act* only acquires its subrogated right of recovery under any law, including sections 126 and 240 of *The Insurance Act*, or the provisions of any contract of insurance in respect of a person to whom a payment of compensation has been made under subsection 1 when Her Majesty in right of Ontario consents in writing to a settlement in accordance with which the right of recovery is discharged or to the bringing of an action to enforce the right of recovery. Right of insurer under R.S.O. 1970, c. 224

(11) If an insurer referred to in subsection 10 purports to make a settlement or brings an action without the consent of Her Majesty, the insurer is liable to Her Majesty in right of Ontario in an amount equal to the amount of the payment of compensation under subsection 1 to the extent of the recovery under the judgment with respect to which the action was brought or the amount paid to the insurer in accordance with the settlement. Where consent not obtained

(12) A release in furtherance of or in accordance with a purported settlement made without the consent of Her Majesty in right of Ontario is a nullity. Effect of release

(13) Her Majesty shall not unreasonably withhold the consent referred to in subsections 10, 11 and 12, but Her Majesty may attach conditions to the consent and may revoke the consent for breach of such a condition. Withholding of consent

(14) The provisions of this section apply notwithstanding any other law or the provisions of any contract of insurance. Conflict

68ka. In this section and in sections 68kb to 68kt,

Interpretation

- (a) "corporation" means the Environmental Compensation Corporation established by section 68kj;



(b) “director” means director of the corporation;

(c) “payment” means payment referred to in subsection 1 of section 68*kb* in respect of a spill of a pollutant.

Corporation  
to authorize  
payment

68*kb*.—(1) Upon application, the corporation shall authorize payment in respect of a spill of a pollutant to,

- (a) any person who has incurred loss or damage as a direct result of,
  - (i) the spill of a pollutant that causes or is likely to cause adverse effects,
  - (ii) the exercise of any authority under subsection 1 of section 68*j* or the carrying out of or attempting to carry out a duty imposed or an order or direction made under this Part, or
  - (iii) neglect or default in carrying out a duty imposed or an order or direction made under this Part;
- (b) any person who has incurred reasonable cost and expense in respect of carrying out or attempting to carry out an order or direction under this Part; and
- (c) the owner of the pollutant and the person having control of the pollutant who are liable to pay compensation under this Part,

if such person, owner of the pollutant or person having control of the pollutant is a member of a class prescribed by the regulations and meets the conditions prescribed by the regulations.

Amount

(2) The amount of the payment that the corporation shall authorize under subsection 1 shall be calculated in the manner prescribed by the regulations,

- (a) generally;
- (b) in respect of the class of which the person, the owner of the pollutant or the person having control of the pollutant is a member; or
- (c) in respect of a class prescribed by the regulations,
  - (i) of spills of pollutants,
  - (ii) of loss or damage, or
  - (iii) of cost or expense.

(3) The corporation shall not authorize payment under subsection 1 in excess of a limit prescribed by the regulations or in excess of a limit calculated in the manner prescribed by the regulations and, in either case, Limit

(a) generally;

(b) in respect of the class of which the person, the owner of the pollutant or the person having control of the pollutant is a member; or

(c) in respect of a class prescribed by the regulations,

(i) of spills of pollutants,

(ii) of loss or damage, or

(iii) of cost or expense.

68kc.—(1) The corporation shall not authorize a payment to a person who fails to comply with or contravenes a condition prescribed by the regulations that must be complied with before the payment. Failure to comply with condition precedent

(2) Where a person fails to comply with or contravenes a condition prescribed by the regulations that attaches to a payment, the corporation has the right to recover on behalf of Her Majesty in right of Ontario the amount of the payment and the costs of the corporation, and the right may be enforced by action in a court of competent jurisdiction. Failure to comply with condition subsequent

68kd. In assessing the amount of a payment, the corporation, except as may be prescribed by the regulations, shall take into consideration any benefit, compensation or indemnity payable to the person from any source. Matters to be considered by corporation

68ke.—(1) The corporation shall make a proposal in respect of payment in connection with each application for payment and shall give notice of its proposal, together with written reasons therefor, to the applicant. Proposal re payment of compensation

(2) The corporation may cause an investigation and report to be made in respect of the performance of its function and the exercise of its powers in any matter. Investigations

68kf. *The Statutory Powers Procedure Act, 1971* does not apply to proceedings of or proposals in respect of payment by the corporation under this Part or the regulations. 1971, c. 47 not to apply

68kg.—(1) An applicant for payment may accept a proposal by the corporation by notice in writing given to the corporation Rights of applicant

within twenty days after the applicant is given notice of the proposal or, if the applicant is dissatisfied with the proposal, the applicant may apply within the twenty days to the High Court by originating notice for the determination of the right of the applicant to payment and the amount of the payment, and on such application the court, in accordance with the rules of court, may determine the right to payment and the amount or may direct the trial of the issue.

Minister  
entitled to  
be heard

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the hearing of an application by the High Court under subsection 1 or any proceeding or appeal with respect thereto.

Extension  
of time for  
acceptance  
of proposal

(3) The corporation may extend the time for accepting a proposal by the corporation under subsection 1, either before or after the expiration of the time, where the corporation is satisfied that there are reasonable grounds for applying for the extension.

Extension  
of time for  
application to  
High Court

(4) The High Court may extend the time for applying to the High Court under subsection 1, either before or after the expiration of the time, where the High Court is satisfied that there are *prima facie* grounds for making a determination in favour of the applicant following the hearing or the trial of the issue under subsection 1 and that there are reasonable grounds for applying for the extension, and the High Court may give such directions as it considers proper consequent upon the extension.

Payment by  
Treasurer of  
Ontario

68kh.—(1) Where, in accordance with this Part and the regulations, an applicant has accepted a proposal by the corporation or has applied to the High Court and it has been finally determined that the applicant is entitled to payment and the amount of the payment has been finally determined, the corporation shall certify to the Treasurer of Ontario in the form prescribed by the regulations the amount of the payment and the person to whom it is payable and, subject to subsection 2, the Treasurer shall pay such amount to the person out of the Consolidated Revenue Fund.

Limitation

(2) The Treasurer of Ontario shall make payments under subsection 1 only during such period of time and subject to such conditions as may be prescribed by the regulations.

Recovery by  
corporation

68ki.—(1) Where a payment is made in accordance with a certificate of the corporation, the corporation has the right on behalf of Her Majesty in right of Ontario to recover in the place of the person to whom the payment was made to the extent of the payment and any costs of the corporation.

Idem

(2) The corporation is entitled under subsection 1 to all rights of recovery whether under this Part or otherwise that the person has against any other person.

(3) The payment of an amount to a person in accordance with a certificate of the corporation shall not be construed to affect the right of the person to compensation under this Part or otherwise at law. Right to recovery

(4) The right of the corporation to recover under subsection 1 may be enforced in a court of competent jurisdiction by the corporation in its name or in the name of the person to whom the payment has been made. Enforcement

(5) An insurer as defined in *The Insurance Act* only acquires its subrogated right of recovery under any law, including sections 126 and 240 of *The Insurance Act*, or the provisions of any contract of insurance in respect of a person to whom a payment has been made in accordance with a certificate of the corporation when the corporation gives its consent in writing to a settlement in accordance with which the right of recovery is discharged or to the bringing of an action to enforce the right of recovery. Right of insurer under R.S.O. 1970, c. 224

(6) If an insurer referred to in subsection 5 purports to make a settlement or brings an action without the consent of the corporation, the insurer is liable to the corporation in an amount equal to the amount of the payment made in accordance with the certificate of the corporation to the extent of the recovery under the judgment with respect to which the action was brought or the amount paid to the insurer in accordance with the settlement. Where consent not obtained

(7) A release in furtherance of or in accordance with a purported settlement made without the consent of the corporation is a nullity. Effect of release

(8) The corporation shall not unreasonably withhold the consent referred to in subsections 5, 6 and 7 but the corporation may attach conditions to the consent and may revoke the consent for breach of such a condition. Withholding of consent

(9) The provisions of this section apply notwithstanding any law or the provisions of any contract of insurance. Conflict

68*kj*.—(1) There is hereby established a corporation without share capital with the name “Environmental Compensation Corporation”. Environmental Compensation Corporation

(2) The corporation shall be composed of not fewer than three directors who shall be appointed by the Lieutenant Governor in Council. Appointment of directors

(3) The term of office of a director of the corporation is three years or until his successor is appointed and a director is eligible for reappointment. Term of office



Chairman	(4) The Lieutenant Governor in Council shall designate one of the directors as chairman.
Quorum	(5) A majority of the directors of the corporation constitutes a quorum.
Conduct of business by less than quorum	(6) The chairman may, in writing, authorize less than a quorum of the directors of the corporation to exercise the powers of the corporation in any matter specified by the chairman.
Management	68kk.—(1) The affairs of the corporation are under the management of its directors.
By-laws	(2) The directors may make by-laws regulating the proceedings of the corporation, governing the exercise of its powers and generally for the conduct and management of the affairs of the corporation.
By-laws by Lieutenant Governor in Council	(3) Where the Minister requests in writing that the corporation make, amend or revoke a by-law and the corporation has failed to do so, the Lieutenant Governor in Council may make the by-law, amendment or revocation specified in the request.
Powers	68kl. The powers of the corporation are, <ul style="list-style-type: none"> <li>(a) to receive and assess applications for payment in accordance with sections 68ka to 68kt and the regulations;</li> <li>(b) to authorize payments in accordance with sections 68ka to 68kt and the regulations;</li> <li>(c) to take action or commence proceedings in any case where the corporation is authorized to do so by or under any Act or law; and</li> <li>(d) to carry out such other duties as may be prescribed by the regulations.</li> </ul>
Remuneration of directors	68km. The corporation shall pay those of its directors who are not officers in the public service of the Province of Ontario such remuneration and expense allowance as may be fixed from time to time by the Lieutenant Governor in Council.
Agency	68kn.—(1) The corporation is an agency of the Crown.
Application of R.S.O. 1970, c. 89; 1976, c. 66	(2) <i>The Corporations Act</i> and <i>The Corporations Information Act</i> , 1976 do not apply to the corporation.
Technical assistance	68ko. The corporation may engage on a temporary basis the services of persons having technical or specialized knowledge to

advise and assist the corporation in performing its function and exercising its powers and, with the approval of the Lieutenant Governor in Council, the corporation may fix and pay the remuneration and expenses of such persons.

68kp.—(1) The corporation may appoint inspectors to make investigations in respect of spills of pollutants in order to assist the corporation in the performance of its function and the exercise of its powers and to carry out such additional duties as may be prescribed by the regulations. Inspectors

(2) It is the duty of an inspector appointed by the corporation, Duties

- (a) to make investigations in respect of spills of pollutants in order to assist the corporation in assessing applications for payment received by the corporation;
- (b) to make such other investigations in respect of spills of pollutants as may be necessary or advisable to assist the corporation to perform its function and to exercise its powers; and
- (c) to carry out such additional duties as may be prescribed by the regulations.

68kq.—(1) Except as to information in respect of a spill of a pollutant, every director and every employee of the corporation and every person engaged or appointed by the corporation shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties or employment under this Act and shall not communicate any such matter to any other person except, Matters confidential

- (a) in connection with the administration of this Act and the regulations or in connection with any proceeding under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) Except in a proceeding under this Act or the regulations, no person to whom subsection 1 applies shall be required to give testimony, other than testimony in respect of a spill of a pollutant, in any civil suit or proceeding with regard to information obtained by him in the course of his duties or employment. Testimony

68kr. Section 96a (which provides protection from personal liability) applies to the directors and the employees of the corpora- Application of s. 96a

tion and to persons engaged or appointed by the corporation in the same manner as it applies to persons described in that section.

Audit

68ks. The accounts and financial transactions of the corporation shall be audited annually by the Provincial Auditor, and reports of the audit shall be made to the corporation and to the Minister.

Annual  
report

68kt.—(1) The corporation shall make a report annually to the Minister upon the affairs of the corporation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Other  
reports

(2) The corporation, in addition to making an annual report, shall make to the Minister such other reports on its affairs and operations as the Minister may require.

Right of  
recourse

68l. Except as expressly provided in this Part, nothing in this Part limits or restricts any right or remedy that any person may have against another person.

Limitation

68m. The liability under this Part of farmers who are owners of pollutants or persons having control of pollutants and who are members of a class prescribed by the regulations is limited to the amount prescribed by the regulations or the amount calculated in the manner prescribed by the regulations in respect of such farmers.

s. 94,  
amended

- 3.** Section 94 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 106, section 31, 1973, chapter 94, section 11 and 1976, chapter 49, section 1, is further amended by adding thereto the following subsection:

Regulations  
relating to  
Part VIII-A

(8) The Lieutenant Governor in Council may make regulations relating to Part VIII-A,

- (a) designating persons and classes of persons for the purposes of subsection 1 of section 68j and prescribing limitations that shall attach to any such designation;
- (b) prescribing conditions that must be complied with by applicants for payment of compensation under subsection 1 of section 68k before payment of the compensation;
- (c) prescribing conditions that shall attach to the payment of compensation under subsection 1 of section 68k;

- (d) designating discharges of pollutants and locations of discharges for the purposes of subsection 2 of section 68a, but no discharge of pollutant or location of discharge shall be designated that is in accordance with an approval, licence, permit, order or regulation under this Act or an approval, direction, notice, order, regulation or report under *The Ontario Water Resources Act* or a licence, order, permit or regulation under *The Pesticides Act, 1973*; R.S.O. 1970,  
c. 332  
1973, c. 25
- (e) classifying spills and exempting any spill or any class of spill from the application of Part VIII-A or any section or portion of Part VIII-A and attaching conditions to any such exemption;
- (f) prescribing any matter required or authorized by Part VIII-A to be, or referred to in those sections as, prescribed by the regulations;
- (g) prescribing classes of or in respect of any matter that is or may be prescribed under clause f;
- (h) limiting the application of any regulation under clause f to any one or more of the classes prescribed under clause g;
- (i) classifying insurers, as defined in *The Insurance Act*, for the purposes of Part VIII-A and exempting any class of insurers from the application of Part VIII-A or any section or portion of Part VIII-A and attaching conditions to any such exemption. R.S.O. 1970,  
c. 224

4. Section 95 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 125, section 2, is further amended by adding thereto the following subsection: s. 95,  
amended

(3) Any class under this Act or the regulations may be defined with respect to any attribute, quality or characteristic or combination thereof and may be defined to include within the class any specified member or members whether or not with the same attributes, qualities or characteristics. Classes

5. Subsections 3 and 4 of section 32 of *The Ontario Water Resources Act*, being chapter 332 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed. R.S.O. 1970,  
c. 332, s. 32 (3, 4),  
repealed
6. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment
7. The short title of this Act is *The Environmental Protection Amendment Act, 1979*. Short title







---

## BILL 24

---

An Act to amend  
The Environmental Protection  
Act, 1971

---

*1st Reading*

March 27th, 1979

*2nd Reading*

May 15th, 1979

*3rd Reading*

December 11th, 1979

---

THE HON. H. C. PARROTT  
Minister of the Environment

---

324N  
KB  
-B 56

3  
11

**BILL 25**

Government  
Publication

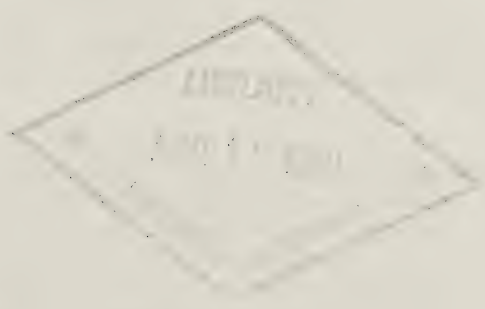
**Government Bill**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

*Legislative Assembly of Ontario*

**An Act to amend The Labour Relations Act**

THE HON. R. G. ELGIE  
Minister of Labour



#### EXPLANATORY NOTES

SECTION 1. The new section 37*a* provides in subsection 1 that a party to a collective agreement may request the Minister to refer to a single arbitrator any difference between the parties to the collective agreement arising from the interpretation, application, administration or alleged violation of the agreement.

The time limits for making a request for referral to an arbitrator are set out in subsections 2 and 3 of section 37*a*.

Prior to the arbitration hearing, the Minister may, under subsection 6, appoint a settlement officer to confer with the parties to attempt to settle the grievance prior to the arbitration hearing.

Section 37*a* also sets out the powers and duties of the arbitrator and provides for his or her remuneration.

## An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

37a.—(1) Notwithstanding the arbitration provision in a collective agreement or deemed to be included in a collective agreement under section 37, a party to a collective agreement may request the Minister to refer to a single arbitrator, to be appointed by the Minister, any difference between the parties to the collective agreement arising from the interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable.

s. 37a,  
enacted  
  
Referral of  
grievances  
to a single  
arbitrator

(2) Subject to subsection 3, a request under subsection 1 may be made by a party to the collective agreement in writing after the grievance procedure under the agreement has been exhausted or after thirty days have elapsed from the time at which the grievance was first brought to the attention of the other party, whichever first occurs, but no such request shall be made beyond the time, if any, stipulated in or permitted under the agreement for referring the grievance to arbitration.

Request for  
reference

(3) Notwithstanding subsection 2, where a difference between the parties to a collective agreement is a difference respecting discharge from or other termination of employment, a request under subsection 1 may be made by a party to the collective agreement in writing after the grievance procedure under the agreement has been exhausted or after fourteen days have elapsed from the time at which the grievance was first brought to the attention of the other party, whichever first occurs, but no such request shall be

Idem

made beyond the time, if any, stipulated in or permitted under the agreement for referring the grievance to arbitration.

Minister to  
appoint  
arbitrator

(4) Where a request is received under subsection 1, the Minister shall appoint a single arbitrator who shall have exclusive jurisdiction to hear and determine the matter referred to him, including any question as to whether a matter is arbitrable and any question as to whether the request was timely.

Idem

(5) Where a request or more than one request concerns several differences arising under the collective agreement, the Minister may in his discretion appoint an arbitrator under subsection 4 to deal with all the differences raised in the request or requests.

Settlement  
officer

(6) The Minister may appoint a settlement officer to confer with the parties and endeavour to effect a settlement prior to the hearing by an arbitrator appointed under subsection 4.

Powers and  
duties of  
arbitrator

(7) An arbitrator appointed under subsection 4 shall commence to hear the matter referred to him within twenty-one days after the receipt of the request by the Minister and the provisions of subsections 5a, 6, 7, 8, 9, 10 and 11 of section 37 apply, with all necessary modifications, to the arbitrator, the parties and the decision of the arbitrator.

Payment of  
arbitrator

(8) Where the Minister has appointed an arbitrator under subsection 4, each of the parties shall pay one-half of the remuneration and expenses of the person appointed.

s. 105,  
amended

**2.** Section 105 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 76, section 28, is further amended by adding thereto the following clauses:

(aa) governing the assignment of arbitrators to conduct arbitrations and the carrying out and completion of such assignments;

(ab) providing for and prescribing a scale of fees and expenses allowable to arbitrators in respect of arbitrations and limiting or restricting the application of such a regulation;

(ac) providing a procedure for the review and determination of disputes concerning the fees and expenses charged or claimed by an arbitrator;

(ad) respecting the filing of schedules of fees and expenses by arbitrators;

SECTION 2. Under section 3 of the Bill, The Ontario Labour-Management Arbitration Commission is abolished. The proposed clauses *aa* and *ba* of section 105 will permit the Lieutenant Governor in Council to make regulations under *The Labour Relations Act* that may now be made under *The Ontario Labour-Management Arbitration Commission Act*.

Under clauses *ab*, *ac* and *ad* of section 105, the Lieutenant Governor in Council will be able to make regulations related to the fees and expenses of arbitrators.

It is now a function of The Ontario Labour-Management Arbitration Commission to sponsor training programs for arbitrators. Under clause *ae* of section 105, the Lieutenant Governor in Council will have the power to make regulations respecting training programs for arbitrators.



SECTION 3. Self-explanatory.

(ae) respecting training programs for arbitrators;

. . . . .

(ba) governing the conduct of arbitration hearings and prescribing procedures therefor.

3. *The Ontario Labour-Management Arbitration Commission Act*, R.S.O. 1970, being chapter 320 of the Revised Statutes of Ontario, 1970, is <sup>c. 320,</sup> repealed.
4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. <sup>Commence-</sup>  
<sup>ment</sup>
5. The short title of this Act is *The Labour Relations Amendment Act, 1979*. <sup>Short title</sup>

---

An Act to amend  
The Labour Relations Act

---

*1st Reading*

March 27th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. R. G. ELGIE  
Minister of Labour

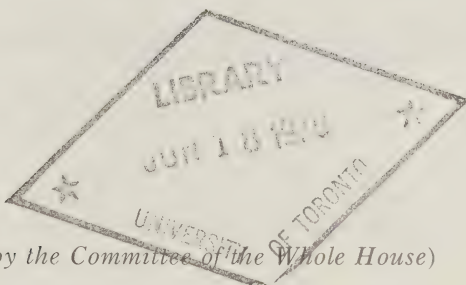
---

*(Government Bill)*

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

## An Act to amend The Labour Relations Act

THE HON. R. G. ELGIE  
Minister of Labour



*(Reprinted as amended by the Committee of the Whole House)*

#### EXPLANATORY NOTES

SECTION 1. The new section 37*a* provides in subsection 1 that a party to a collective agreement may request the Minister to refer to a single arbitrator any difference between the parties to the collective agreement arising from the interpretation, application, administration or alleged violation of the agreement.

The time limits for making a request for referral to an arbitrator are set out in subsections 2 and 3 of section 37*a*.

Prior to the arbitration hearing, the Minister may, under subsection 6, appoint a settlement officer to confer with the parties to attempt to settle the grievance prior to the arbitration hearing.

Section 37*a* sets out the powers and duties of the arbitrator and provides for his or her remuneration. It also permits the Minister to establish a list of approved arbitrators and to constitute a labour-management advisory committee to advise him on matters related to arbitration.

Section 37*a* applies to collective agreements renewed or made after the date that section 37*a* comes into force.

## An Act to amend The Labour Relations Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 37a,  
enacted

37a.—(1) Notwithstanding the arbitration provision in a collective agreement or deemed to be included in a collective agreement under section 37, a party to a collective agreement may request the Minister to refer to a single arbitrator, to be appointed by the Minister, any difference between the parties to the collective agreement arising from the interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable. Referral of  
grievances  
to a single  
arbitrator

(2) Subject to subsection 3, a request under subsection 1 may be made by a party to the collective agreement in writing after the grievance procedure under the agreement has been exhausted or after thirty days have elapsed from the time at which the grievance was first brought to the attention of the other party, whichever first occurs, but no such request shall be made beyond the time, if any, stipulated in or permitted under the agreement for referring the grievance to arbitration. Request for  
reference

(3) Notwithstanding subsection 2, where a difference between the parties to a collective agreement is a difference respecting discharge from or other termination of employment, a request under subsection 1 may be made by a party to the collective agreement in writing after the grievance procedure under the agreement has been exhausted or after fourteen days have elapsed from the time at which the grievance was first brought to the attention of the other party, whichever first occurs, but no such request shall be Idem

made beyond the time, if any, stipulated in or permitted under the agreement for referring the grievance to arbitration.

Minister to  
appoint  
arbitrator

(4) Where a request is received under subsection 1, the Minister shall appoint a single arbitrator who shall have exclusive jurisdiction to hear and determine the matter referred to him, including any question as to whether a matter is arbitrable and any question as to whether the request was timely.

Idem

(5) Where a request or more than one request concerns several differences arising under the collective agreement, the Minister may in his discretion appoint an arbitrator under subsection 4 to deal with all the differences raised in the request or requests.

Settlement  
officer

(6) The Minister may appoint a settlement officer to confer with the parties and endeavour to effect a settlement prior to the hearing by an arbitrator appointed under subsection 4.

Powers and  
duties of  
arbitrator

(7) An arbitrator appointed under subsection 4 shall commence to hear the matter referred to him within twenty-one days after the receipt of the request by the Minister and the provisions of subsections 5a, 6, 7, 8, 9, 10 and 11 of section 37 apply, with all necessary modifications, to the arbitrator, the parties and the decision of the arbitrator.

Oral  
decisions

(8) Upon the agreement of the parties, the arbitrator shall deliver an oral decision forthwith or as soon as practicable without giving his reasons in writing therefor.

Payment of  
arbitrator

(9) Where the Minister has appointed an arbitrator under subsection 4, each of the parties shall pay one-half of the remuneration and expenses of the person appointed.

Approval of  
arbitrators,  
etc.

(10) The Minister may establish a list of approved arbitrators and, for the purpose of advising him with respect to persons qualified to act as arbitrators and matters relating to arbitration, the Minister may constitute a labour-management advisory committee composed of a chairman to be designated by the Minister and six members, three of whom shall represent employers and three of whom shall represent trade unions, and their remuneration and expenses shall be as the Lieutenant Governor in Council determines.

Application

(11) This section does not apply to a collective agreement in operation on the day this section comes into force but applies to every collective agreement that is renewed or made after that date.



SECTION 2. The amendment is complementary to the enactment of section 37a of the Act.



SECTION 3. Under section 4 of the Bill, The Ontario Labour-Management Arbitration Commission is abolished. The proposed clauses *aa* and *ba* of section 105 will permit the Lieutenant Governor in Council to make regulations under *The Labour Relations Act* that may now be made under *The Ontario Labour-Management Arbitration Commission Act*.

Under clauses *ab*, *ac* and *ad* of section 105, the Lieutenant Governor in Council will be able to make regulations related to the fees and expenses of arbitrators.

It is now a function of The Ontario Labour-Management Arbitration Commission to sponsor training programs for arbitrators. Under clause *ae* of section 105, the Lieutenant Governor in Council will have the power to make regulations respecting training programs for arbitrators.

SECTION 4. Self-explanatory.





2. Subsection 1 of section 96 of the said Act is repealed and the following substituted therefor: s. 96 (1)  
re-enacted

(1) Where a request is made under section 15, subsection 1 of section 37 or subsection 1 of section 37*a*, the Minister may refer to the Board any question that arises that in his opinion relates to his authority to make an appointment under any such provision that is mentioned in the reference, and the Board shall report to the Minister its decision on the question. Reference  
of  
questions

3. Section 105 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 76, section 28, is further amended by adding thereto the following clauses: s. 105,  
amended

(*aa*) governing the assignment of arbitrators to conduct arbitrations and the carrying out and completion of such assignments;

(*ab*) providing for and prescribing a scale of fees and expenses allowable to arbitrators in respect of arbitrations and limiting or restricting the application of such a regulation;

(*ac*) providing a procedure for the review and determination of disputes concerning the fees and expenses charged or claimed by an arbitrator;

(*ad*) respecting the filing of schedules of fees and expenses by arbitrators;

(*ae*) respecting training programs for arbitrators;

. . . . .

(*ba*) governing the conduct of arbitration hearings and prescribing procedures therefor.

4. *The Ontario Labour-Management Arbitration Commission Act*, R.S.O. 1970,  
c. 320,  
repealed being chapter 320 of the Revised Statutes of Ontario, 1970, is repealed.

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

6. The short title of this Act is *The Labour Relations Amendment Act*, Short title  
1979.

An Act to amend  
The Labour Relations Act

*1st Reading*

March 27th, 1979

*2nd Reading*

April 24th, 1979

*3rd Reading*

THE HON. R. G. ELGIE  
Minister of Labour

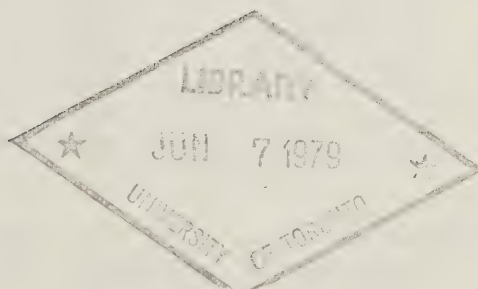
*(Reprinted as amended by the  
Committee of the Whole House)*

**BILL 25**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend The Labour Relations Act**

THE HON. R. G. ELGIE  
Minister of Labour



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL 25

1979

## An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 37a.  
enacted

37a.—(1) Notwithstanding the arbitration provision in a collective agreement or deemed to be included in a collective agreement under section 37, a party to a collective agreement may request the Minister to refer to a single arbitrator, to be appointed by the Minister, any difference between the parties to the collective agreement arising from the interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable. Referral of  
grievances  
to a single  
arbitrator

(2) Subject to subsection 3, a request under subsection 1 may be made by a party to the collective agreement in writing after the grievance procedure under the agreement has been exhausted or after thirty days have elapsed from the time at which the grievance was first brought to the attention of the other party, whichever first occurs, but no such request shall be made beyond the time, if any, stipulated in or permitted under the agreement for referring the grievance to arbitration. Request for  
reference

(3) Notwithstanding subsection 2, where a difference between the parties to a collective agreement is a difference respecting discharge from or other termination of employment, a request under subsection 1 may be made by a party to the collective agreement in writing after the grievance procedure under the agreement has been exhausted or after fourteen days have elapsed from the time at which the grievance was first brought to the attention of the other party, whichever first occurs, but no such request shall be Idem

made beyond the time, if any, stipulated in or permitted under the agreement for referring the grievance to arbitration.

Minister to  
appoint  
arbitrator

(4) Where a request is received under subsection 1, the Minister shall appoint a single arbitrator who shall have exclusive jurisdiction to hear and determine the matter referred to him, including any question as to whether a matter is arbitrable and any question as to whether the request was timely.

Idem

(5) Where a request or more than one request concerns several differences arising under the collective agreement, the Minister may in his discretion appoint an arbitrator under subsection 4 to deal with all the differences raised in the request or requests.

Settlement  
officer

(6) The Minister may appoint a settlement officer to confer with the parties and endeavour to effect a settlement prior to the hearing by an arbitrator appointed under subsection 4.

Powers and  
duties of  
arbitrator

(7) An arbitrator appointed under subsection 4 shall commence to hear the matter referred to him within twenty-one days after the receipt of the request by the Minister and the provisions of subsections 5a, 6, 7, 8, 9, 10 and 11 of section 37 apply, with all necessary modifications, to the arbitrator, the parties and the decision of the arbitrator.

Oral  
decisions

(8) Upon the agreement of the parties, the arbitrator shall deliver an oral decision forthwith or as soon as practicable without giving his reasons in writing therefor.

Payment of  
arbitrator

(9) Where the Minister has appointed an arbitrator under subsection 4, each of the parties shall pay one-half of the remuneration and expenses of the person appointed.

Approval of  
arbitrators,  
etc.

(10) The Minister may establish a list of approved arbitrators and, for the purpose of advising him with respect to persons qualified to act as arbitrators and matters relating to arbitration, the Minister may constitute a labour-management advisory committee composed of a chairman to be designated by the Minister and six members, three of whom shall represent employers and three of whom shall represent trade unions, and their remuneration and expenses shall be as the Lieutenant Governor in Council determines.

Application

(11) This section does not apply to a collective agreement in operation on the day this section comes into force but applies to every collective agreement that is renewed or made after that date.



2. Subsection 1 of section 96 of the said Act is repealed and the following substituted therefor: s. 96 (1)  
re-enacted

(1) Where a request is made under section 15, subsection 1 of section 37 or subsection 1 of section 37*a*, the Minister may refer to the Board any question that arises that in his opinion relates to his authority to make an appointment under any such provision that is mentioned in the reference, and the Board shall report to the Minister its decision on the question. Reference  
of  
questions

3. Section 105 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 76, section 28, is further amended by adding thereto the following clauses: s. 105,  
amended

(*aa*) governing the assignment of arbitrators to conduct arbitrations and the carrying out and completion of such assignments;

(*ab*) providing for and prescribing a scale of fees and expenses allowable to arbitrators in respect of arbitrations and limiting or restricting the application of such a regulation;

(*ac*) providing a procedure for the review and determination of disputes concerning the fees and expenses charged or claimed by an arbitrator;

(*ad*) respecting the filing of schedules of fees and expenses by arbitrators;

(*ae*) respecting training programs for arbitrators;

(*ba*) governing the conduct of arbitration hearings and prescribing procedures therefor.

4. *The Ontario Labour-Management Arbitration Commission Act*, R.S.O. 1970,  
c. 320,  
repealed being chapter 320 of the Revised Statutes of Ontario, 1970, is repealed.

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

6. The short title of this Act is *The Labour Relations Amendment Act*, Short title  
1979.







An Act to amend  
The Labour Relations Act

---

*1st Reading*

March 27th, 1979

*2nd Reading*

April 24th, 1979

*3rd Reading*

May 29th, 1979

---

THE HON. R. G. ELGIE  
Minister of Labour

---

4280  
XB  
- B 36

---

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

---

## An Act to amend The Consumer Protection Act

---

MR. NEWMAN  
(Windsor-Walkerville)

---



#### EXPLANATORY NOTE

This Bill requires that every product offered for sale by a retailer that is marked with the universal product code must also be clearly marked with its individual purchase price.

BILL 26

1979

## An Act to amend The Consumer Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Consumer Protection Act*, being chapter 82 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 47a,  
enacted

47a.—(1) In this section,

Interpre-  
tation

- (a) “computer code” means a marking that is designed to be read and recorded by a computer device for the purpose of calculating the purchase price of a product offered for sale and includes the universal product code;
- (b) “product” means an item of goods;
- (c) “retail seller” means a person who offers a product for sale but not for resale.

(2) No retail seller shall offer for sale a product that is marked with a computer code unless the individual purchase price of such product is clearly expressed on the product, its wrapper or container. Individual  
purchase  
price  
marking  
required

2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is *The Consumer Protection Amendment Act, 1979*. Short title

---

An Act to amend  
The Consumer Protection Act

---

*1st Reading*

March 27th, 1979

*2nd Reading*

*3rd Reading*

---

MR. NEWMAN  
(Windsor-Walkerville)

---

*(Private Member's Bill)*

---

**BILL 27**

Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to regulate the Manufacture, Sale and  
Servicing of Portable Fire Extinguishers**

MR. STONG

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTE

The purpose of the Bill is to protect the public from the fire hazard created by inadequately manufactured and serviced fire extinguishers. The Bill requires that any business or person engaged in the business of manufacturing, selling or servicing fire extinguishers must first obtain a licence. The Lieutenant Governor in Council has authority to make regulations establishing safety standards governing the manufacturing and servicing of fire extinguishers. The Director of Fire Extinguisher Safety may require persons who apply for a licence to service fire extinguishers to complete examinations to ensure their competency prior to being issued a licence. The Director has authority to refuse an application or to revoke a licence, but the Bill establishes a right to a hearing before the Fire Marshal of Ontario and a further appeal to a court in order to provide recourse to applicants and licensees who wish to reverse the Director's decision.

BILL 27

1979

**An Act to regulate the Manufacture,  
Sale and Servicing of Portable  
Fire Extinguishers**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** In this Act,

Interpre-  
tation

- (a) "Director" means the Director of Fire Extinguisher Safety;
- (b) "fire extinguisher" means a portable device designed and intended to be used for the purpose of extinguishing fires;
- (c) "Marshal" means the Fire Marshal of Ontario.

**2.**—(1) There shall be a Director of Fire Extinguisher Safety who shall be appointed by the Lieutenant Governor in Council.

Director

(2) The Director may exercise the powers and shall discharge the duties conferred and imposed upon him by this Act and the regulations.

Powers and  
duties

**3.** No person shall,

Licences

- (a) engage in the business of manufacturing, selling or servicing fire extinguishers; or
- (b) undertake to service a fire extinguisher,

unless such person is the holder of a licence therefor.

**4.**—(1) Every applicant for a licence to engage in the business of manufacturing, selling or servicing fire extinguishers or for a licence to service fire extinguishers shall apply to the Director in the prescribed form.

Applica-  
tion for  
licence

Employer  
to ensure  
employees  
licensed

(2) No person engaged in the business of servicing fire extinguishers shall employ a person to service fire extinguishers who is not the holder of a licence.

Address for  
service

5. Every applicant for a licence shall state in the application an address for service in Ontario, and all notices under this Act or the regulations are sufficiently given or served for all purposes if sent by registered mail or delivered to the latest address for service so stated.

Notice of  
changes in  
business,  
etc.

6. Every person licensed to engage in the business of manufacturing, selling or servicing fire extinguishers shall within fourteen days notify the Director of,

- (a) any change in the address for service or in the address of any place at which the person carries on business;
- (b) any change in the officers or members in the case of an association of individuals, partnership or corporation; and
- (c) any termination of employment of a person licensed to service fire extinguishers.

Inquiry re  
applicant

7.—(1) The Director or any person authorized by him may make such inquiry as he considers sufficient regarding the competence of an applicant or licensee and may require an applicant to try such examinations to determine competence as the Director considers necessary.

Further  
informa-  
tion

(2) The Director may require further information or material to be submitted by an applicant or a licensee and may require verification by affidavit or otherwise of any information or material then or previously submitted.

Issuance of  
licence

8. The Director shall issue a licence or renewal of a licence where in the opinion of the Director the proposed licensing is not against the public interest, and the licence may be subject to terms and conditions.

Transfers

9. A licence is not transferable.

Expiry of  
licence

10. Every licence and renewal of licence expires on the day three years after the day of issuance.

Cancellation  
of  
licence on  
termina-  
tion of  
employ-  
ment

11.—(1) The licence of a person licensed to service fire extinguishers is cancelled upon the termination of the employment in respect of which it was issued.

(2) When a person licensed to service fire extinguishers Idem ceases to be employed as such, he shall give the licence to his employer who shall forward it to the Director.

(3) Every person who is licensed to engage in the business of manufacturing, selling or servicing fire extinguishers shall immediately upon the termination of such business forward to the Director his licence together with the licences, if any, of his employees. Surrender of licence

**12.**—(1) Where the Director proposes to refuse to grant or renew a licence or proposes to suspend or revoke a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee. Notice of proposal to refuse or revoke

(2) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Marshal if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Director and the Marshal, and he may so require such a hearing. Notice requiring hearing

(3) Where an applicant or licensee does not require a hearing by the Marshal in accordance with subsection 2, the Director may carry out the proposal stated in the notice under subsection 1. Powers of Director where no hearing

(4) Where an applicant or licensee requires a hearing by the Marshal in accordance with subsection 2, the Marshal shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may order the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the Marshal considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the Marshal may substitute his opinion for that of the Director. Powers of Marshal where hearing

(5) The Marshal may attach such terms and conditions to his order or to the licence as he considers proper to give effect to the purposes of the Act. Conditions of order

(6) The Director, the applicant or licensee who has required the hearing and such other persons as the Marshal may specify are parties to proceedings before the Marshal under this section. Parties

**13.**—(1) An applicant or licensee who is a party to proceedings under section 12 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced, or any report the content of which will be given in evidence at the hearing. Examination of documentary evidence

Recording of evidence	(2) The oral evidence taken before the Marshal shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
Findings of fact	(3) The findings of fact of the Marshal pursuant to a hearing or review shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of <i>The Statutory Powers Procedure Act, 1971</i> .
1971, c. 47	
Release of docu- mentary evidence	(4) Documents and things put in evidence at a hearing before the Marshal shall, upon the request of the person who produced them, be released to him by the Marshal within a reasonable time after the matter in issue has been finally determined.
Reasons	(5) The Marshal shall give his decision and reasons therefor in writing to the parties to the proceedings.
Order effective, stay	(6) Notwithstanding that a licensee appeals from an order of the Marshal, the order takes effect immediately, but the Marshal may grant a stay until disposition of the appeal.
Appeal from decision of Marshal	<b>14.</b> —(1) Any party to proceedings before the Marshal may appeal from his decision or order to the Supreme Court in accordance with the rules of court.
Record to be filed in court	(2) Where any party appeals from a decision of the Marshal, the Marshal shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of the evidence if it is not part of the Marshal's record, shall constitute the record in the appeal.
Minister entitled to be heard	(3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.
Powers of court on appeal	(4) An appeal under this section may be made on questions of law or fact or both and the court may exercise all the powers of the Marshal, and for such purpose the court may substitute its opinion for that of the Director or of the Marshal, or the court may refer the matter back to the Marshal for rehearing, in whole or in part, in accordance with such directions as the court considers proper.
Voluntary cancellation	<b>15.</b> Notwithstanding section 12, the Director may cancel a licence upon the request in writing of the licensee in the prescribed form surrendering his licence.



**16.** Where, within the time prescribed therefor, or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of the licence, the licence shall be deemed to continue,

Continu-  
ation of  
licence  
pending  
renewal

(a) until the renewal is granted; or

(b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Marshal has made his order.

**17.** A further application for a licence may be made upon new or other evidence or where it is clear that material circumstances have changed.

Further  
application

**18.**—(1) Where the Director receives a complaint in respect of the carrying on of the business of manufacturing, selling or servicing fire extinguishers and so requests in writing, the person carrying on the business shall furnish the Marshal with such information respecting the matter complained of as the Marshal may require.

Complaints

(2) The request under subsection 1 shall indicate the nature of the inquiry involved.

Idem

**19.** The Director or any person designated by him in writing may at any reasonable time enter upon any premises in respect of which a licence is issued to make an inspection for the purpose of ensuring that the provisions of this Act and the regulations and the terms and conditions of the licence are being complied with, and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

Inspections

**20.** The Minister may, by order, appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act.

Investiga-  
tions by  
order of  
Minister

1971, c. 49

**21.**—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or investigation, shall preserve secrecy in respect of all matters that come to his knowledge in the course of

Matters  
confi-  
dential

his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

Testimony  
in civil suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations.

Restrain-  
ing orders

**22.**—(1) Where it appears to the Marshal that any person does not comply with a provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of a penalty in respect of such non-compliance and in addition to any other rights he may have, the Marshal may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Court of Appeal from an order made under subsection 1.

Offences

**23.**—(1) Every person who knowingly,

- (a) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order, direction or other requirement made under this Act; or
- (c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000.

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. Corporations

(3) No proceedings under this section shall be instituted except with the consent of the Minister. Consent of the Minister

**24.** A statement as to,

Certificate as evidence

- (a) the licensing or non-licensing of any person ;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Marshal ;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Marshal ;
- (d) any other matter pertaining to such licensing, non-licensing, filing or non-filing or to any such person, document or material,

purporting to be certified by the Marshal is, without proof of the office or signature of the Marshal, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

**25.** The Lieutenant Governor in Council may make Regulations regulations,

- (a) prescribing methods, standards and procedures in respect of the manufacture and servicing of fire extinguishers ;
- (b) providing for the issuance of licences and for renewals thereof ;
- (c) exempting any class of person or fire extinguisher or type of service from this Act or the regulations or any provision thereof ;
- (d) requiring licensees, or any class thereof, to be bonded on such terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds ;
- (e) requiring licensees, or any class thereof, to make returns and furnish information to the Director ;
- (f) governing contracts for the sale, purchase or servicing of fire extinguishers ;



(g) prescribing forms and providing for their use.

Commence-  
ment

**26.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**27.** The short title of this Act is *The Portable Fire Extinguishers Safety Act, 1979*.



## BILL 27

---

An Act to regulate the  
Manufacture, Sale and Servicing of  
Portable Fire Extinguishers

---

### *1st Reading*

March 27th, 1979

### *2nd Reading*

### *3rd Reading*

---

MR. STONG

---

(*Private Member's Bill*)

---

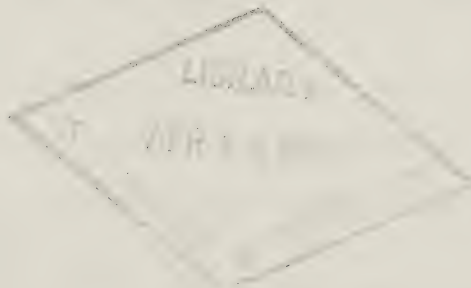
1280  
XB  
-B56  
3  
BILL 28

Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979  
*Legislative Assembly*

**An Act to protect the Reputation of Innocent  
Persons from Untimely Publicity**

Mr. STONG



#### EXPLANATORY NOTE

The purpose of the Bill is to protect persons who have been charged with an offence from adverse publicity until such time as a court begins to hear evidence in the case or the person enters a plea of guilty to the offence.

BILL 28

1979

## An Act to protect the Reputation of Innocent Persons from Untimely Publicity

**W**HEREAS it is recognized as an inherent principle of Preamble  
law and order and fundamental to the preservation of the freedom and dignity of every person that any person charged with a contravention of an enactment of the Legislative Assembly of the Province of Ontario or of the Parliament of Canada is innocent and so remains until proven guilty in accordance with due process of the law;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** No person shall publish or broadcast any report in Ontario of an offence committed or alleged to have been committed under the law of Ontario or Canada that contains the name of the person accused of committing the offence, the name of a relative of the accused person, or any other information that is reasonably likely to disclose the identity of the accused person until, Restriction on publication of name of accused person

- (a) the trial of the person has commenced; and
- (b) the person has pleaded guilty to the offence; or
- (c) the court has begun to receive evidence in respect of the offence.

**2.—(1)** Every person who knowingly contravenes section 1 of this Act and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000. Offence

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. Corporations

Commence-  
ment

**3.** This Act comes into force on the day it receives Royal Assent.

Short title

**4.** The short title of this Act is *The Innocent Persons Protection Act, 1979*.









**BILL 28**

---

An Act to protect the Reputation of  
Innocent Persons from Untimely Publicity

---

*1st Reading*

March 27th, 1979

*2nd Reading*

*3rd Reading*

---

MR. STONG

---

*(Private Member's Bill)*

---

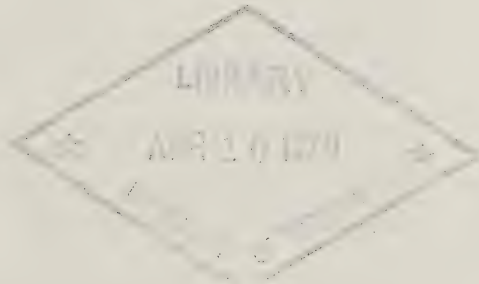
**BILL 29**

Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to provide for Municipal Hydro-Electric Service in  
The Regional Municipality of Niagara**

THE HON. J. A. C. AULD  
Minister of Energy



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTES

The Bill establishes new hydro-electric commissions for the municipalities of Grimsby, Lincoln, Niagara Falls, Niagara-on-the-Lake, Pelham, Port Colborne, St. Catharines, Thorold, Welland and West Lincoln.

A transitional period is provided before the new commissions become fully operational.

The members of each commission will be the mayor of the area municipality and additional members qualified as municipal electors in the municipality.

The council of each area municipality will determine whether after November 30th, 1980, the members of its commission should be elected or appointed.

Customers in the cities of Niagara Falls, Port Colborne, St. Catharines, Thorold and Welland will be supplied with power by the new commissions.

Customers in the towns of Grimsby, Lincoln, Niagara-on-the-Lake and Pelham and the Township of West Lincoln now supplied with power by municipal commissions will be supplied by the new commissions. Customers in each of these area municipalities now supplied by Ontario Hydro will continue to be supplied by Ontario Hydro until the council of the area municipality, with the consent of Ontario Hydro, directs the new commission to supply power in all areas of the municipality. In the interim, the councils are required to review the distribution and supply of power at least once in every three years.

Customers in Wainfleet will continue to be served by Ontario Hydro until the council of the Township of Wainfleet establishes a hydro-electric commission for the township. Until the commission is established, the council is required to review the distribution and supply of power in the township at least once in every three years.

Customers in Fort Erie will be served by the Canadian Niagara Power Company Limited under the terms of the present franchise.

Provision is made for the transfer of employees and the protection of their salaries and benefits.

BILL 29

1979

## An Act to provide for Municipal Hydro-Electric Service in The Regional Municipality of Niagara

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** In this Act,

Interpre-  
tation

- (a) "accumulated net retail equity" means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro's rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) "area municipality" has the same meaning as in *The Regional Municipality of Niagara Act*; R.S.O. 1970,  
c. 406
- (c) "Minister" means the Minister of Intergovernmental Affairs;
- (d) "municipal commission" means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the Regional Area within the meaning of *The Regional Municipality of Niagara Act* immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*; R.S.O. 1970,  
c. 390
- (e) "power" means electrical power and includes electrical energy;
- (f) "regulations" means the regulations made under this Act;

- (g) "retail", when used in relation to the distribution and supply of power, refers to the distribution and supply of power at voltages less than 50 kilovolts, but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions  
established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the towns of Grimsby and Lincoln, the City of Niagara Falls, the Town of Niagara-on-the-Lake, the Town of Pelham, the City of Port Colborne, the City of St. Catharines, the City of Thorold, the City of Welland and the Township of West Lincoln is hereby established.

Application of  
R.S.O. 1970,  
cc. 390, 354

(2) Each commission established by subsection 1 shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

Names of  
commissions

(3) Each commission established by subsection 1 shall be known by the name set out below that relates to the area municipality in respect of which the commission is established:

1. Grimsby Hydro-Electric Commission.
2. Lincoln Hydro-Electric Commission.
3. Niagara Falls Hydro-Electric Commission.
4. Niagara-on-the-Lake Hydro-Electric Commission.
5. Pelham Hydro-Electric Commission.
6. Port Colborne Hydro-Electric Commission.
7. St. Catharines Hydro-Electric Commission.
8. Thorold Hydro-Electric Commission.
9. Welland Hydro-Electric Commission.
10. West Lincoln Hydro-Electric Commission.

Composition

(4) Each commission established by subsection 1 shall consist of the mayor of the area municipality in respect of which the commission is established and either two or four

additional members who are qualified electors under *The 1977, c. 62 Municipal Elections Act, 1977* in the area municipality.

(5) The council of each area municipality shall determine by by-law whether the number of additional members of the commission established by subsection 1 in respect of the area municipality shall be two or four. When area municipality may determine size of commission

(6) For the term expiring with the 30th day of November, 1980, the council of each area municipality served by a commission established by subsection 1 shall appoint the additional members of the commission. Additional members of first commissions

(7) At least one half of the additional members appointed under subsection 6 shall be appointed from among the members of the municipal commission or the municipal commissions, as the case may be, that supplied power immediately before the coming into force of this Act in the area municipality in respect of which the commission is established by subsection 1. Idem

(8) At least one of the additional members appointed by the council of each area municipality under subsection 6 shall be a person who resides outside the part of the area municipality supplied with power by a municipal commission immediately before the coming into force of this Act. Idem

(9) For terms commencing after the 30th day of November, 1980, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1980, the council of the area municipality provides by by-law that the additional members shall be appointed by the council. Additional members of subsequent commissions

(10) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission. Eligibility of members of council

(11) A member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed. Term of office

(12) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate Delegates



from among the members of the council to represent the mayor on the commission.

Salary  
of first  
commissions

(13) The salaries of the members of the commissions established by subsection 1 for the term expiring with the 30th day of November, 1980, shall be fixed on or before the 1st day of October, 1979 in an amount that does not exceed the highest salary paid to members of the municipal commissions operating in the Regional Area within the meaning of *The Regional Municipality of Niagara Act* on the 1st day of January, 1979.

R.S.O. 1970,  
c. 406

Resignation

(14) A resignation from the council of an area municipality of a member of the council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the council and the commission.

Where  
more  
than one  
municipal  
commission  
in area

(15) Notwithstanding subsection 5, where an area municipality was served immediately before the coming into force of this Act by more than one municipal commission, for the term expiring with the 30th day of November, 1980, the number of additional members of the commission established by subsection 1 in respect of the area municipality shall be four and at least one of such additional members shall be appointed by the council of the area municipality from among the members of each of the municipal commissions.

Queenston  
village  
trustees  
deemed  
commission

(16) The trustees of the police village of Queenston as it existed on the 31st day of December, 1969 shall be deemed to have been established on that date as a hydro-electric commission for the control and management of works for the retail distribution and supply of power in the police village of Queenston under Part III of *The Public Utilities Act*.

R.S.O. 1970,  
c. 390

Establish-  
ment of  
Wainfleet  
commission  
by by-law

**3.**—(1) The council of the Township of Wainfleet may, with the consent of Ontario Hydro, establish by by-law a hydro-electric commission for the Township of Wainfleet.

Name, etc.

(2) The commission established under subsection 1,

(a) shall be known as the Wainfleet Hydro-Electric Commission; and

(b) shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

R.S.O. 1970,  
cc. 390, 354

(3) The council of the Township of Wainfleet shall appoint the first additional members of the commission established under subsection 1. First additional members

(4) Upon the establishment of the commission under subsection 1, Application of other sections of Act

(a) subsections 4, 5, 10, 11, 12 and 14 of section 2, subsections 5, 6 and 10 of section 4 and sections 5, 6 and 9 shall apply with necessary modifications;

(b) subsection 9 of section 2, subsections 1, 2, 7 and 12 to 16 of section 4 and section 7 shall apply with necessary modifications and, for the purpose, the dates mentioned therein shall be deemed to be the dates that shall be specified in the by-law mentioned in subsection 1; and

(c) the commission, for the purposes of clauses *a* and *b*, shall be deemed to be a commission established by section 2.

(5) Until such time as the power conferred by subsection 1 has been exercised, Review of distribution and supply of power

(a) the council of the Township of Wainfleet shall review the distribution and supply of power within the Township of Wainfleet at least once in every three years, and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and

(b) where the council determines as provided in clause *a* that it is financially feasible, the council shall exercise the power conferred by subsection 1.

4.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public Utilities Act* on a municipal corporation with respect to power shall, on and after the 1st day of January, 1980, be exercised on behalf of each area municipality mentioned in subsection 1 of section 2 by the commission established by section 2 in respect of the area municipality and not by the council of any municipality or any other person. Powers of commissions R.S.O. 1970, c. 390

(2) Subject to subsections 3 and 6 and to any subsisting contracts for the supply of power made under section 70 of *The Power Corporation Act* or for the supply of power Idem R.S.O. 1970, c. 354

at 25 hertz, on and after the 1st day of January, 1980, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established, and may contract with Ontario Hydro for the transmission and supply to the commission of power to be distributed and sold within the municipality without electoral assent or other approval or authorization and such a contract shall be deemed to be an agreement within the meaning of clause s of subsection 2 of section 293 of *The Municipal Act*.

R.S.O. 1970,  
c. 284

Where  
Ontario  
Hydro to  
continue to  
supply power

(3) Subject to subsections 13 and 14, Ontario Hydro shall continue to distribute and supply power in those areas of the towns of Grimsby, Lincoln, Niagara-on-the-Lake and Pelham and the Township of West Lincoln that Ontario Hydro served immediately before the coming into force of this Act and subsections 10 and 12 and section 7 do not apply in respect of the assets and employees of Ontario Hydro in those municipalities.

Fort Erie

(4) The Canadian Niagara Power Company Limited has the sole right to distribute and supply power within the Town of Fort Erie on the same terms and conditions and for the same period of time as under the franchise granted by by-law number 785 passed by the council of the Town of Fort Erie on the 18th day of March, 1935.

Application of  
R.S.O. 1970,  
c. 354

(5) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to the commissions established by section 2.

Direct  
customers

(6) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers within the area municipality in respect of which the commission is established.

Transfer of  
assets and  
liabilities

(7) On the 1st day of January, 1980, all assets under the control and management of and all liabilities of municipal commissions are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the municipality.

Compensation by  
Niagara Falls  
Hydro-Electric  
Commission

(8) Notwithstanding subsection 7, on or before the 1st day of January, 1980, the Niagara Falls Hydro-Electric Commission established by section 2 shall purchase from the Canadian Niagara Power Company Limited the assets pertaining to

the distribution and supply of power other than at 25 hertz in that portion of the City of Niagara Falls supplied with power by the Canadian Niagara Power Company Limited immediately before the coming into force of this Act, and the purchase price shall be determined by agreement between them.

(9) Such management and control of works for the distribution and supply of power within the area municipalities mentioned in subsection 1 of section 2 as are exercised by municipal commissions and Ontario Hydro immediately before this Act comes into force remain entrusted to them to and including the 31st day of December, 1979, but any of the assets, powers and responsibilities of the commissions and Ontario Hydro pertaining to the distribution and supply of power in any of the area municipalities may by agreement be transferred before that date to a commission established by section 2 in respect of the area municipality. Transitional

(10) Except as may be agreed by a commission established by section 2 and Ontario Hydro for the purposes of subsection 6 or otherwise, on or before the 1st day of January, 1980, each commission established by section 2 shall purchase, on behalf of the area municipality served by the commission, the assets and liabilities of Ontario Hydro pertaining to the distribution and supply of power at retail within the area municipality, including equipment leased by Ontario Hydro to retail customers within the area municipality for the use of such power and the purchase price shall be determined in accordance with the regulations, and shall be equal to the original cost of the assets less the sum of, Purchase of retail distribution facilities

(a) the accumulated net retail equity of the customers supplied with power through the assets; and

(b) the accumulated depreciation associated with the assets.

(11) On or before the 1st day of January, 1980, the Canadian Niagara Power Company Limited shall purchase the assets and liabilities of Ontario Hydro pertaining to the retail distribution of power within the Town of Fort Erie, including equipment leased by Ontario Hydro to retail customers within the Town of Fort Erie, and the purchase price shall be determined by agreement between them. Idem

(12) If the purchase price under subsection 8, 10 or 11 is not determined before the 1st day of January, 1981, either Where price to be determined by arbitration



of the parties at any time thereafter may request that the purchase price be determined either by a single arbitrator agreed on by the parties or by a board of arbitration.

Where parties  
unable to  
agree on  
single  
arbitrator

(13) Where a request is made under subsection 12 for a determination by a single arbitrator and the parties are unable to agree on an arbitrator within thirty days after the making of the request, either of the parties may request that the purchase price be determined by a board of arbitration.

Arbitration  
board

(14) Where a request is made under subsection 12 or 13 that the purchase price be determined by a board of arbitration,

- (a) within fourteen days after the request, each party to the arbitration shall appoint a person as a member of the board of arbitration and shall give notice to the other party of the name and address of the person;
- (b) the two members of the board of arbitration, within ten days after the giving of the notice of appointment of the second of them, shall appoint a third person to be chairman of the board of arbitration and the chairman shall give notice of his appointment to the parties; and
- (c) if a party fails to appoint a member to a board of arbitration in accordance with clause *a* or if the members do not appoint a chairman in accordance with clause *b*, or in the event of the absence or inability to act or of a vacancy in the office of a member or the chairman of a board of arbitration, either party may apply on notice to the other party to the Divisional Court and the court may appoint the member or chairman.

Application of  
R.S.O. 1970,  
c. 25

(15) Except as otherwise provided in this subsection, *The Arbitrations Act* applies to subsections 12, 13 and 14.

Interpre-  
tation

(16) In subsections 12, 13 and 14, "parties" means,

- (a) in respect of subsection 8, Canadian Niagara Power Company Limited and Niagara Falls Hydro-Electric Commission;
- (b) in respect of subsection 10, Ontario Hydro and, in each case, the commission established by section 2; and

- (c) in respect of subsection 11, Canadian Niagara Power Company Limited and Ontario Hydro.

(17) The council of each of the towns of Grimsby, Lincoln, Niagara-on-the-Lake and Pelham and the Township of West Lincoln, with the consent of Ontario Hydro and without the assent of the municipal electors, by by-law,

Supply of power in all areas of municipalities of Grimsby, Lincoln, Niagara-on-the-Lake, Pelham, West Lincoln

- (a) may direct the commission established by section 2 in respect of the municipality to commence on a day specified by the by-law the distribution and supply of power in all areas of the municipality and on the specified day subsections 10 and 12 to 16 and section 7 shall apply with necessary modifications to the assets and employees of Ontario Hydro in the municipality; or

- (b) may dissolve the commission established by section 2 in respect of the municipality on a day specified by the by-law and on the specified day,

- (i) all assets under the control and management of and all liabilities of the commission, and all debentures issued in respect of the distribution and supply of power in the municipality are, without compensation, assets and liabilities of Ontario Hydro, and

- (ii) Ontario Hydro shall commence to distribute and supply power in all areas of the municipality.

(18) Until such time as the power conferred by subsection 17 has been exercised,

Review of distribution and supply of power

- (a) the council of each of the towns of Grimsby, Lincoln, Niagara-on-the-Lake and Pelham and the Township of West Lincoln shall review the distribution and supply of power within their respective municipalities at least once in every three years and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 17; and

- (b) where the council of the town of Grimsby, Lincoln, Niagara-on-the-Lake or Pelham or the Township of West Lincoln determines as provided in clause a that it is financially feasible for the commission established under section 2 in respect of the municipality to distribute and supply power in the entire municipi-

pality, the council, subject to the approval of Ontario Hydro, shall exercise the power conferred by subsection 17.

Vesting  
of real  
property

**5.—(1)** All real property transferred by section 4 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission shall be held by the commission in trust for the area municipality served by the commission.

Disposition  
of real  
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property, whichever is the greater, and when the area municipality in good faith no longer wishes to use the real property for a municipal purpose, the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.
2. In the event that the municipality served by the commission does not wish to use the real property in accordance with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor under this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

R.S.O. 1970,  
c. 390

Borrowing  
R.S.O. 1970,  
c. 406

**6.** Except as otherwise provided in this Act, sections 131 to 152 of *The Regional Municipality of Niagara Act* apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

7.—(1) In this section, “transfer date”, when used in respect of an employee of a municipal commission or Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

Interpre-  
tation

(2) On or before the 31st day of December, 1979, each municipal commission that supplied power in an area municipality mentioned in subsection 1 of section 2 immediately before the coming into force of this Act and Ontario Hydro shall designate those of its full-time employees who were employed in the distribution and supply of power in an area municipality mentioned in subsection 1 of section 2 on the 1st day of January, 1979, and who continued such employment until the 31st day of December, 1979 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Transfer of  
employees

(3) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Wages or  
salaries

(4) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

Participation  
in O.M.E.R.S.

R.S.O. 1970,  
c. 324

(5) When a person who accepts employment under this section with a commission established by section 2 is entitled immediately before his transfer date to the benefit of a supplementary agreement between the Ontario Municipal Employees Retirement Board and a municipal commission that, immediately before the coming into force of this Act, supplied power in an area municipality mentioned in subsection 1 of section 2, the commission established by section 2 shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the municipal commission.

Supplemen-  
tary  
agreements

(6) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund

Transfer  
of pension  
credits from  
Ontario  
Hydro Plan



of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Pension  
guarantee

(7) Notwithstanding subsection 4, a person who accepts employment under this section with a commission established by section 2 and who,

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of the commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1979, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 4 shall be apportioned and paid as provided by the regulations.

Group life  
insurance

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer.

Idem

(9) On or before the 31st day of December, 1981, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the person was entitled immediately before his transfer date.

(10) A person who accepts employment under this section shall continue to enjoy the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits. Sick leave

(11) Each commission established by section 2 shall continue the provision of life insurance to pensioners formerly employed by a municipal commission in the distribution and supply of power in the area municipality served by the commission established by section 2. Life insurance provided to pensioners

(12) Nothing in this section prevents an employer from terminating the employment of an employee for cause. Termination for cause

(13) Where, in the opinion of the Minister, a person who is designated or who accepts employment under this section experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship. Special circumstances

8. For the purposes of section 174 of *The Regional Municipality of Niagara Act*, the 1st day of January, 1980 is the date determined by the Minister in respect of the Regional Area within the meaning of *The Regional Municipality of Niagara Act*, and on that date the municipal commissions supplying only electrical power and energy in that area immediately before the coming into force of this Act are dissolved and the by-laws establishing them passed under sections 38 and 40 of *The Public Utilities Act* shall be deemed to be repealed and the assent of the municipal electors is not required. Dissolution of existing commissions R.S.O. 1970, c. 406

9. The Lieutenant Governor in Council may make regulations, Regulations

(a) for the purpose of subsection 10 of section 4 in respect of,

(i) the method of determining the original cost of the assets or of any asset or of any part of any asset,

- (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
- (iii) the method of determining the amount of any component of the accumulated net retail equity,
- (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
- (v) the method of calculating accumulated depreciation of any component of accumulated depreciation,
- (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
- (vii) the method of payment of the price of the assets;

(b) for the purposes of subsection 7 of section 7, in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

Commence-  
ment

**10.** This Act comes into force on the day it receives Royal Assent.

Short title

**11.** The short title of this Act is *The Niagara Municipal Hydro-Electric Service Act, 1979*.

















An Act to provide for  
Municipal Hydro-Electric Service in  
The Regional Municipality of Niagara

*1st Reading*

March 29th, 1979

*2nd Reading*

*3rd Reading*

THE HON. J. A. C. AULD  
Minister of Energy

*(Government Bill)*

3  
B-56  
3  
17 BILL 29

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to provide for Municipal Hydro-Electric Service in  
The Regional Municipality of Niagara**

THE HON. J. A. C. AULD  
Minister of Energy



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL 29

1979

**An Act to provide for Municipal  
Hydro-Electric Service in The Regional  
Municipality of Niagara**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** In this Act,

Interpre-  
tation

- (a) "accumulated net retail equity" means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro's rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) "area municipality" has the same meaning as in *The Regional Municipality of Niagara Act*; R.S.O. 1970,  
c. 406
- (c) "Minister" means the Minister of Intergovernmental Affairs;
- (d) "municipal commission" means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the Regional Area within the meaning of *The Regional Municipality of Niagara Act* immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*; R.S.O. 1970,  
c. 390
- (e) "power" means electrical power and includes electrical energy;
- (f) "regulations" means the regulations made under this Act;

- (g) "retail", when used in relation to the distribution and supply of power, refers to the distribution and supply of power at voltages less than 50 kilovolts, but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions  
established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the towns of Grimsby and Lincoln, the City of Niagara Falls, the Town of Niagara-on-the-Lake, the Town of Pelham, the City of Port Colborne, the City of St. Catharines, the City of Thorold, the City of Welland and the Township of West Lincoln is hereby established.

Application of  
R.S.O. 1970,  
cc. 390, 354

(2) Each commission established by subsection 1 shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

Names of  
commissions

(3) Each commission established by subsection 1 shall be known by the name set out below that relates to the area municipality in respect of which the commission is established:

1. Grimsby Hydro-Electric Commission.
2. Lincoln Hydro-Electric Commission.
3. Niagara Falls Hydro-Electric Commission.
4. Niagara-on-the-Lake Hydro-Electric Commission.
5. Pelham Hydro-Electric Commission.
6. Port Colborne Hydro-Electric Commission.
7. St. Catharines Hydro-Electric Commission.
8. Thorold Hydro-Electric Commission.
9. Welland Hydro-Electric Commission.
10. West Lincoln Hydro-Electric Commission.

Composition

(4) Each commission established by subsection 1 shall consist of the mayor of the area municipality in respect of which the commission is established and either two or four

additional members who are qualified electors under *The 1977, c. 62 Municipal Elections Act, 1977* in the area municipality.

(5) The council of each area municipality shall determine by by-law whether the number of additional members of the commission established by subsection 1 in respect of the area municipality shall be two or four. When area municipality may determine size of commission

(6) For the term expiring with the 30th day of November, 1980, the council of each area municipality served by a commission established by subsection 1 shall appoint the additional members of the commission. Additional members of first commissions

(7) At least one half of the additional members appointed under subsection 6 shall be appointed from among the members of the municipal commission or the municipal commissions, as the case may be, that supplied power immediately before the coming into force of this Act in the area municipality in respect of which the commission is established by subsection 1. Idem

(8) At least one of the additional members appointed by the council of each area municipality under subsection 6 shall be a person who resides outside the part of the area municipality supplied with power by a municipal commission immediately before the coming into force of this Act. Idem

(9) For terms commencing after the 30th day of November, 1980, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1980, the council of the area municipality provides by by-law that the additional members shall be appointed by the council. Additional members of subsequent commissions

(10) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission. Eligibility of members of council

(11) A member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed. Term of office

(12) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate Delegates



from among the members of the council to represent the mayor on the commission.

Salary  
of first  
commissions

(13) The salaries of the members of the commissions established by subsection 1 for the term expiring with the 30th day of November, 1980, shall be fixed on or before the 1st day of October, 1979 in an amount that does not exceed the highest salary paid to members of the municipal commissions operating in the Regional Area within the meaning of *The Regional Municipality of Niagara Act* on the 1st day of January, 1979.

R.S.O. 1970,  
c. 406

Resignation

(14) A resignation from the council of an area municipality of a member of the council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the council and the commission.

Where  
more  
than one  
municipal  
commission  
in area

(15) Notwithstanding subsection 5, where an area municipality was served immediately before the coming into force of this Act by more than one municipal commission, for the term expiring with the 30th day of November, 1980, the number of additional members of the commission established by subsection 1 in respect of the area municipality shall be four and at least one of such additional members shall be appointed by the council of the area municipality from among the members of each of the municipal commissions.

Queenston  
village  
trustees  
deemed  
commission

(16) The trustees of the police village of Queenston as it existed on the 31st day of December, 1969 shall be deemed to have been established on that date as a hydro-electric commission for the control and management of works for the retail distribution and supply of power in the police village of Queenston under Part III of *The Public Utilities Act*.

R.S.O. 1970,  
c. 390

Establish-  
ment of  
Wainfleet  
commission  
by by-law

**3.**—(1) The council of the Township of Wainfleet may, with the consent of Ontario Hydro, establish by by-law a hydro-electric commission for the Township of Wainfleet.

Name, etc.

(2) The commission established under subsection 1,

(a) shall be known as the Wainfleet Hydro-Electric Commission; and

(b) shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

R.S.O. 1970,  
cc. 390, 354

(3) The council of the Township of Wainfleet shall appoint the first additional members of the commission established under subsection 1. First additional members

(4) Upon the establishment of the commission under subsection 1, Application of other sections of Act

(a) subsections 4, 5, 10, 11, 12 and 14 of section 2, subsections 5, 6 and 10 of section 4 and sections 5, 6 and 9 shall apply with necessary modifications;

(b) subsection 9 of section 2, subsections 1, 2, 7 and 12 to 16 of section 4 and section 7 shall apply with necessary modifications and, for the purpose, the dates mentioned therein shall be deemed to be the dates that shall be specified in the by-law mentioned in subsection 1; and

(c) the commission, for the purposes of clauses *a* and *b*, shall be deemed to be a commission established by section 2.

(5) Until such time as the power conferred by subsection 1 has been exercised, Review of distribution and supply of power

(a) the council of the Township of Wainfleet shall review the distribution and supply of power within the Township of Wainfleet at least once in every three years, and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and

(b) where the council determines as provided in clause *a* that it is financially feasible, the council shall exercise the power conferred by subsection 1.

**4.—**(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public Utilities Act* on a municipal corporation with respect to power shall, on and after the 1st day of January, 1980, be exercised on behalf of each area municipality mentioned in subsection 1 of section 2 by the commission established by section 2 in respect of the area municipality and not by the council of any municipality or any other person. Powers of commissions R.S.O. 1970, c. 390

(2) Subject to subsections 3 and 6 and to any subsisting contracts for the supply of power made under section 70 of *The Power Corporation Act* or for the supply of power Idem R.S.O. 1970, c. 354

at 25 hertz, on and after the 1st day of January, 1980, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established, and may contract with Ontario Hydro for the transmission and supply to the commission of power to be distributed and sold within the municipality without electoral assent or other approval or authorization and such a contract shall be deemed to be an agreement within the meaning of clause s of subsection 2 of section 293 of *The Municipal Act*.

R.S.O. 1970,  
c. 284

Where  
Ontario  
Hydro to  
continue to  
supply power

(3) Subject to subsections 17 and 18, Ontario Hydro shall continue to distribute and supply power in those areas of the towns of Grimsby, Lincoln, Niagara-on-the-Lake and Pelham and the Township of West Lincoln that Ontario Hydro served immediately before the coming into force of this Act and subsections 10 and 12 and section 7 do not apply in respect of the assets and employees of Ontario Hydro in those municipalities.

Fort Erie

(4) The Canadian Niagara Power Company Limited has the sole right to distribute and supply power within the Town of Fort Erie on the same terms and conditions and for the same period of time as under the franchise granted by by-law number 783 passed by the council of the Town of Fort Erie on the 18th day of March, 1935.

Application of  
R.S.O. 1970,  
c. 354

(5) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to the commissions established by section 2.

Direct  
customers

(6) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers within the area municipality in respect of which the commission is established.

Transfer of  
assets and  
liabilities

(7) On the 1st day of January, 1980, all assets under the control and management of and all liabilities of municipal commissions are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the municipality.

Compensation by  
Niagara Falls  
Hydro-Electric  
Commission

(8) Notwithstanding subsection 7, on or before the 1st day of January, 1980, the Niagara Falls Hydro-Electric Commission established by section 2 shall purchase from the Canadian Niagara Power Company Limited the assets pertaining to

the distribution and supply of power other than at 25 hertz in that portion of the City of Niagara Falls supplied with power by the Canadian Niagara Power Company Limited immediately before the coming into force of this Act, and the purchase price shall be determined by agreement between them.

(9) Such management and control of works for the distribution and supply of power within the area municipalities mentioned in subsection 1 of section 2 as are exercised by municipal commissions and Ontario Hydro immediately before this Act comes into force remain entrusted to them to and including the 31st day of December, 1979, but any of the assets, powers and responsibilities of the commissions and Ontario Hydro pertaining to the distribution and supply of power in any of the area municipalities may by agreement be transferred before that date to a commission established by section 2 in respect of the area municipality. Transitional

(10) Except as may be agreed by a commission established by section 2 and Ontario Hydro for the purposes of subsection 6 or otherwise, on or before the 1st day of January, 1980, each commission established by section 2 shall purchase, on behalf of the area municipality served by the commission, the assets and liabilities of Ontario Hydro pertaining to the distribution and supply of power at retail within the area municipality, including equipment leased by Ontario Hydro to retail customers within the area municipality for the use of such power and the purchase price shall be determined in accordance with the regulations, and shall be equal to the original cost of the assets less the sum of, Purchase of retail distribution facilities

(a) the accumulated net retail equity of the customers supplied with power through the assets; and

(b) the accumulated depreciation associated with the assets.

(11) On or before the 1st day of January, 1980, the Canadian Niagara Power Company Limited shall purchase the assets and liabilities of Ontario Hydro pertaining to the retail distribution of power within the Town of Fort Erie, including equipment leased by Ontario Hydro to retail customers within the Town of Fort Erie, and the purchase price shall be determined by agreement between them. Idem

(12) If the purchase price under subsection 8, 10 or 11 is not determined before the 1st day of January, 1981, either Where price to be determined by arbitration



of the parties at any time thereafter may request that the purchase price be determined either by a single arbitrator agreed on by the parties or by a board of arbitration.

Where parties  
unable to  
agree on  
single  
arbitrator

(13) Where a request is made under subsection 12 for a determination by a single arbitrator and the parties are unable to agree on an arbitrator within thirty days after the making of the request, either of the parties may request that the purchase price be determined by a board of arbitration.

Arbitration  
board

(14) Where a request is made under subsection 12 or 13 that the purchase price be determined by a board of arbitration,

- (a) within fourteen days after the request, each party to the arbitration shall appoint a person as a member of the board of arbitration and shall give notice to the other party of the name and address of the person;
- (b) the two members of the board of arbitration, within ten days after the giving of the notice of appointment of the second of them, shall appoint a third person to be chairman of the board of arbitration and the chairman shall give notice of his appointment to the parties; and
- (c) if a party fails to appoint a member to a board of arbitration in accordance with clause *a* or if the members do not appoint a chairman in accordance with clause *b*, or in the event of the absence or inability to act or of a vacancy in the office of a member or the chairman of a board of arbitration, either party may apply on notice to the other party to the Divisional Court and the court may appoint the member or chairman.

Application of  
R.S.O. 1970,  
c. 25

(15) Except as otherwise provided in this subsection, *The Arbitrations Act* applies to subsections 12, 13 and 14.

Interpre-  
tation

(16) In subsections 12, 13 and 14, "parties" means,

- (a) in respect of subsection 8, Canadian Niagara Power Company Limited and Niagara Falls Hydro-Electric Commission;
- (b) in respect of subsection 10, Ontario Hydro and, in each case, the commission established by section 2; and

- (c) in respect of subsection 11, Canadian Niagara Power Company Limited and Ontario Hydro.

(17) The council of each of the towns of Grimsby, Lincoln, Niagara-on-the-Lake and Pelham and the Township of West Lincoln, with the consent of Ontario Hydro and without the assent of the municipal electors, by by-law,

Supply of power in all areas of municipalities of Grimsby, Lincoln, Niagara-on-the-Lake, Pelham, West Lincoln

- (a) may direct the commission established by section 2 in respect of the municipality to commence on a day specified by the by-law the distribution and supply of power in all areas of the municipality and on the specified day subsections 10 and 12 to 16 and section 7 shall apply with necessary modifications to the assets and employees of Ontario Hydro in the municipality; or
- (b) may dissolve the commission established by section 2 in respect of the municipality on a day specified by the by-law and on the specified day,
  - (i) all assets under the control and management of and all liabilities of the commission, and all debentures issued in respect of the distribution and supply of power in the municipality are, without compensation, assets and liabilities of Ontario Hydro, and
  - (ii) Ontario Hydro shall commence to distribute and supply power in all areas of the municipality.

(18) Until such time as the power conferred by subsection 17 has been exercised,

Review of distribution and supply of power

- (a) the council of each of the towns of Grimsby, Lincoln, Niagara-on-the-Lake and Pelham and the Township of West Lincoln shall review the distribution and supply of power within their respective municipalities at least once in every three years and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 17; and
- (b) where the council of the town of Grimsby, Lincoln, Niagara-on-the-Lake or Pelham or the Township of West Lincoln determines as provided in clause a that it is financially feasible for the commission established under section 2 in respect of the municipality to distribute and supply power in the entire municipi-

pality, the council, subject to the approval of Ontario Hydro, shall exercise the power conferred by subsection 17.

Vesting  
of real  
property

**5.—**(1) All real property transferred by section 4 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission shall be held by the commission in trust for the area municipality served by the commission.

Disposition  
of real  
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed-value of the real property, whichever is the greater, and when the area municipality in good faith no longer wishes to use the real property for a municipal purpose, the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.
2. In the event that the municipality served by the commission does not wish to use the real property in accordance with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor under this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

R.S.O. 1970,  
c. 390

Borrowing  
R.S.O. 1970,  
c. 406

**6.** Except as otherwise provided in this Act, sections 131 to 152 of *The Regional Municipality of Niagara Act* apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

7.—(1) In this section, “transfer date”, when used in respect of an employee of a municipal commission or Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

Interpretation

(2) On or before the 31st day of December, 1979, each municipal commission that supplied power in an area municipality mentioned in subsection 1 of section 2 immediately before the coming into force of this Act and Ontario Hydro shall designate those of its full-time employees who were employed in the distribution and supply of power in an area municipality mentioned in subsection 1 of section 2 on the 1st day of January, 1979, and who continued such employment until the 31st day of December, 1979 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Transfer of employees

(3) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Wages or salaries

(4) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

Participation in O.M.E.R.S.

R.S.O. 1970, c. 324

(5) When a person who accepts employment under this section with a commission established by section 2 is entitled immediately before his transfer date to the benefit of a supplementary agreement between the Ontario Municipal Employees Retirement Board and a municipal commission that, immediately before the coming into force of this Act, supplied power in an area municipality mentioned in subsection 1 of section 2, the commission established by section 2 shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the municipal commission.

Supplementary agreements

(6) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund

Transfer of pension credits from Ontario Hydro Plan



of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Pension  
guarantee

(7) Notwithstanding subsection 4, a person who accepts employment under this section with a commission established by section 2 and who,

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of the commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1979, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 4 shall be apportioned and paid as provided by the regulations.

Group life  
insurance

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer.

Idem

(9) On or before the 31st day of December, 1981, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the person was entitled immediately before his transfer date.

(10) A person who accepts employment under this section shall continue to enjoy the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits. Sick leave

(11) Each commission established by section 2 shall continue the provision of life insurance to pensioners formerly employed by a municipal commission in the distribution and supply of power in the area municipality served by the commission established by section 2. Life insurance provided to pensioners

(12) Nothing in this section prevents an employer from terminating the employment of an employee for cause. Termination for cause

(13) Where, in the opinion of the Minister, a person who is designated or who accepts employment under this section experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship. Special circumstances

8. For the purposes of section 174 of *The Regional Municipality of Niagara Act*, the 1st day of January, 1980 is the date determined by the Minister in respect of the Regional Area within the meaning of *The Regional Municipality of Niagara Act*, and on that date the municipal commissions supplying only electrical power and energy in that area immediately before the coming into force of this Act are dissolved and the by-laws establishing them passed under sections 38 and 40 of *The Public Utilities Act* shall be deemed to be repealed and the assent of the municipal electors is not required. Dissolution of existing commissions R.S.O. 1970, c. 406

9. The Lieutenant Governor in Council may make regulations, Regulations

(a) for the purpose of subsection 10 of section 4 in respect of,

(i) the method of determining the original cost of the assets or of any asset or of any part of any asset,

- (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
  - (iii) the method of determining the amount of any component of the accumulated net retail equity,
  - (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
  - (v) the method of calculating accumulated depreciation of any component of accumulated depreciation,
  - (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
  - (vii) the method of payment of the price of the assets;
- (b) for the purposes of subsection 7 of section 7, in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

Commence-  
ment

**10.** This Act comes into force on the day it receives Royal Assent.

Short title

**11.** The short title of this Act is *The Niagara Municipal Hydro-Electric Service Act, 1979*.

















---

An Act to provide for  
Municipal Hydro-Electric Service in  
The Regional Municipality of Niagara

---

*1st Reading*

March 29th, 1979

*2nd Reading*

May 1st, 1979

*3rd Reading*

May 29th, 1979

---

THE HON. J. A. C. AULD  
Minister of Energy

---

**BILL 30**

**Government Bill**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

*Legislative Assembly*

**An Act to amend  
The York Municipal Hydro-Electric Service Act, 1978**

THE HON. J. A. C. AULD  
Minister of Energy



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The subsection deals with members of council who sit as members of a commission established by the Act. The amendment clarifies the position of the members of council as members of the commission.

BILL 30

1979

**An Act to amend  
The York Municipal Hydro-Electric  
Service Act, 1978**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 16 of section 2 of *The York Municipal Hydro-Electric Service Act, 1978*, being chapter 31, is repealed and the following substituted therefor: s. 2 (16),  
re-enacted

(16) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission. Eligibility  
of members  
of council

2. This Act shall be deemed to have come into force on the 20th day of June, 1978. Commence-  
ment
3. The short title of this Act is *The York Municipal Hydro-Electric Service Amendment Act, 1979*. Short title

---

---

## BILL 30

---

An Act to amend  
The York Municipal Hydro-Electric  
Service Act, 1978

---

*1st Reading*

March 29th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. J. A. C. AULD  
Minister of Energy

---

*(Government Bill)*

A24N  
YB  
P350

3  
P

**BILL 30**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend  
The York Municipal Hydro-Electric Service Act, 1978**

THE HON. J. A. C. AULD  
Minister of Energy







BILL 30

1979

**An Act to amend  
The York Municipal Hydro-Electric  
Service Act, 1978**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 16 of section 2 of *The York Municipal Hydro-Electric Service Act, 1978*, being chapter 31, is repealed and the following substituted therefor: s. 2 (16),  
re-enacted

(16) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission. Eligibility  
of members  
of council

2. This Act shall be deemed to have come into force on the 20th day of June, 1978. Commence-  
ment
3. The short title of this Act is *The York Municipal Hydro-Electric Service Amendment Act, 1979*. Short title

---

An Act to amend  
The York Municipal Hydro-Electric  
Service Act, 1978

---

*1st Reading*

March 29th, 1979

*2nd Reading*

May 1st, 1979

*3rd Reading*

May 1st, 1979

---

THE HON. J. A. C. AULD  
Minister of Energy

---

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend  
The Ontario Municipal Employees Retirement System Act**

THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics



#### EXPLANATORY NOTES

SECTION 1. Subsections 3a and 3b as they now read are set out below:

- (3a) *Notwithstanding subsection 3, commencing in the year 1975, a portion of the money accumulated to the credit of the Fund and not required for current expenditures, as shall be agreed upon between the Treasurer of Ontario and the Board and approved by the Lieutenant Governor in Council, shall be retained by the Board.*
- (3b) *The portion of the money retained by the Board shall form part of the Fund and the Board shall invest such part of the Fund as pension fund moneys subject to the limitations of The Pension Benefits Act and for the purposes of that Act such part of the Fund shall be treated as a separate pension fund.*

The effect of the re-enactment is to permit the Board, by agreement with the Treasurer, to retain and invest the whole or any portion of its surplus moneys (rather than a portion only of such moneys, as now provided). Surplus moneys not so retained and invested by the Board, are, by the provisions of subsection 3, paid over to the Treasurer in return for a Province of Ontario debenture issued annually having a term of from 20 to 30 years and bearing interest equal to the average yield of long term Provincial debentures issued in that year in the Canadian capital market.

SECTION 2. Section 11 of the Act reads as follows:

- 11. *The interest of a person in the Fund and in any benefit under this Act is not subject to garnishment, attachment, seizure or other process of law, and is not assignable.*

The proposed new subsection 2 will make pension moneys payable out of the Fund subject to garnishment, attachment or seizure in satisfaction of an order for support under *The Family Law Reform Act, 1978*.

BILL 31

1979

**An Act to amend  
The Ontario Municipal Employees  
Retirement System Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 3a and 3b of section 7 of *The Ontario Municipal Employees Retirement System Act*, being chapter 324 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1974, chapter 102, section 3, are repealed and the following substituted therefor:
 

s. 7 (3a, 3b),  
re-enacted

(3a) Notwithstanding subsection 3, commencing in the year 1975, all or a portion of the money accumulated to the credit of the Fund and not required for current expenditures, as shall be agreed upon between the Treasurer of Ontario and the Board and approved by the Lieutenant Governor in Council, shall be retained by the Board.
 

Money retained  
by the  
Board

(3b) The money retained by the Board under subsection 3a shall form part of the Fund and the Board shall invest such part of the Fund as pension fund moneys subject to the limitations of *The Pension Benefits Act*, and, for the purposes of that Act, such part of the Fund shall be treated as a separate pension fund.
 

Money retained  
to be  
invested  
R.S.O. 1970,  
c. 342

2. Section 11 of the said Act is amended by adding thereto the following subsection:
 

s. 11,  
amended

(2) Subsection 1 does not apply to the garnishment, attachment or seizure of moneys payable out of the Fund in satisfaction of an order for support under *The Family Law Reform Act, 1978*.
 

Application of  
subs. 1  
1978, c. 2

- 3.—(1) This Act, except section 2, comes into force on the day it receives Royal Assent.
 

Commence-  
ment

Idem

(2) Section 2 shall be deemed to have come into force on the 31st day of March, 1978.

Short title

**4.** The short title of this Act is *The Ontario Municipal Employees Retirement System Amendment Act, 1979*.









---

## BILL 31

---

An Act to amend  
The Ontario Municipal Employees  
Retirement System Act

---

*1st Reading*

March 29th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

---

*(Government Bill)*

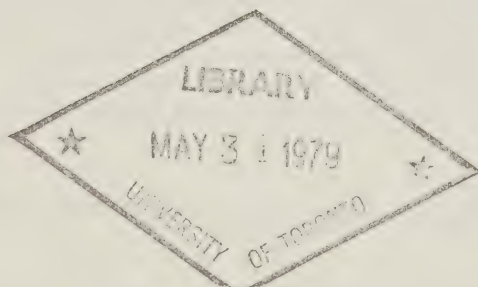
---

**BILL 31**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend  
The Ontario Municipal Employees Retirement System Act**

THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL 31

1979

**An Act to amend  
The Ontario Municipal Employees  
Retirement System Act**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 3a and 3b of section 7 of *The Ontario Municipal Employees Retirement System Act*, being chapter 324 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1974, chapter 102, section 3, are repealed and the following substituted therefor:

(3a) Notwithstanding subsection 3, commencing in the year 1975, all or a portion of the money accumulated to the credit of the Fund and not required for current expenditures, as shall be agreed upon between the Treasurer of Ontario and the Board and approved by the Lieutenant Governor in Council, shall be retained by the Board.

Money  
retained  
by the  
Board

(3b) The money retained by the Board under subsection 3a shall form part of the Fund and the Board shall invest such part of the Fund as pension fund moneys subject to the limitations of *The Pension Benefits Act*, and, for the purposes of that Act, such part of the Fund shall be treated as a separate pension fund.

Money  
retained  
to be  
invested  
R.S.O. 1970,  
c. 342

2. Section 11 of the said Act is amended by adding thereto the following subsection:

s. 11,  
amended

(2) Subsection 1 does not apply to the garnishment, attachment or seizure of moneys payable out of the Fund in satisfaction of an order for support under *The Family Law Reform Act, 1978*.

Application of  
subs. 1  
1978, c. 2

- 3.—(1) This Act, except section 2, comes into force on the day it receives Royal Assent.

Commence-  
ment

- Idem (2) Section 2 shall be deemed to have come into force on the 31st day of March, 1978.
- Short title **4.** The short title of this Act is *The Ontario Municipal Employees Retirement System Amendment Act, 1979*.









An Act to amend  
The Ontario Municipal Employees  
Retirement System Act

*1st Reading*

March 29th, 1979

*2nd Reading*

May 15th, 1979

*3rd Reading*

May 15th, 1979

THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

**BILL 32**

**Government Bill**

3RD SESSION, 31ST LEGISLATURE, <sup>1</sup>ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend The Audit Act, 1977**

THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

Clause *a* of section 1 of the Act defines agency of the Crown. The definition is amended to clarify the reference to *The Crown Agency Act*.

BILL 32

1979

### An Act to amend The Audit Act, 1977

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of section 1 of *The Audit Act, 1977*, being chapter 61, is amended by striking out "but does not include one that is not affected by *The Crown Agency Act*" in the twenty-first and twenty-second lines and inserting in lieu thereof "but does not include one that *The Crown Agency Act* states is not affected by that Act or that any other Act states is not a Crown agency within the meaning or for the purposes of *The Crown Agency Act*". s. 1 (a),  
amended
2. This Act shall be deemed to have come into force on the 1st day of April, 1979. Commence-  
ment
3. The short title of this Act is *The Audit Amendment Act, 1979*. Short title

An Act to amend  
the Audit Act, 1977

*1st Reading*

March 29th, 1979

*2nd Reading*

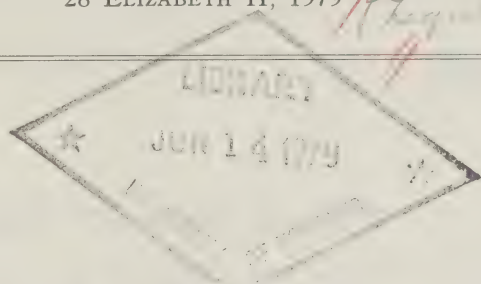
*3rd Reading*

THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

*(Government Bill)*

3  
BILL 32

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979



**An Act to amend The Audit Act, 1977**

THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics





BILL 32

1979

**An Act to amend The Audit Act, 1977**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of section 1 of *The Audit Act, 1977*, being chapter 61, <sup>s. 1 (a),</sup> is amended by striking out "but does not include one that is amended not affected by *The Crown Agency Act*" in the twenty-first and twenty-second lines and inserting in lieu thereof "but does not include one that *The Crown Agency Act* states is not affected by that Act or that any other Act states is not a Crown agency within the meaning or for the purposes of *The Crown Agency Act*".
2. This Act shall be deemed to have come into force on the 1st <sup>Commence-</sup> day of April, 1979. <sup>ment</sup>
3. The short title of this Act is *The Audit Amendment Act, 1979*. <sup>Short title</sup>

---

An Act to amend  
the Audit Act, 1977

---

*1st Reading*

March 29th, 1979

*2nd Reading*

May 24th, 1979

*3rd Reading*

May 24th, 1979

---

---

THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

---

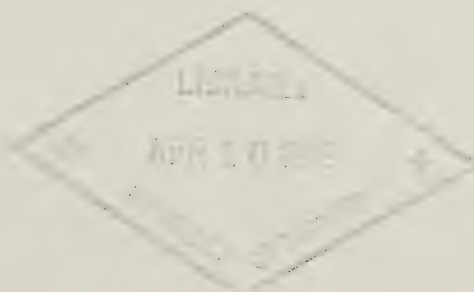
**BILL 33**

**Government Bill**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend  
The Agricultural Development Repeal Act, 1973**

THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

When *The Agricultural Development Act* was repealed in 1973, by subsection 2 of section 1 of the repealing Act, certain sections were continued in force to apply to loans made before the repeal of the Act. Section 2 of the repealing Act vested the assets and rights of the Commissioner of Agricultural Loans in the Treasurer for the purpose of those sections that continued to apply. All loans under the Act have now been paid off and the Bill provides a statutory discharge of every mortgage that had been made to secure a loan made under the Act.

BILL 33

1979

**An Act to amend  
The Agricultural Development Repeal Act, 1973**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 1 of *The Agricultural Development Repeal Act, 1973*, being chapter 32, is repealed and the following substituted therefor: s. 1 (2),  
re-enacted

(2) Every mortgage to secure a loan made by the Commissioner of Agricultural Loans under the said Act, whether or not the mortgage has been registered in a land registry office, is hereby discharged. Mortgages  
discharged

2. Section 2 of the said Act is repealed. s. 2,  
repealed
3. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
4. The short title of this Act is *The Agricultural Development Repeal Amendment Act, 1979*. Short title

---

---

**BILL 33**

---

An Act to amend  
The Agricultural Development  
Repeal Act, 1973

---

*1st Reading*

March 29th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

---

(*Government Bill*)

**BILL 33**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend  
The Agricultural Development Repeal Act, 1973**

THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO





BILL 33

1979

**An Act to amend  
The Agricultural Development Repeal Act, 1973**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 1 of *The Agricultural Development Repeal Act, 1973*, being chapter 32, is repealed and the following substituted therefor: s. 1 (2),  
re-enacted

(2) Every mortgage to secure a loan made by the Commissioner of Agricultural Loans under the said Act, whether or not the mortgage has been registered in a land registry office, is hereby discharged. Mortgages  
discharged

2. Section 2 of the said Act is repealed. s. 2,  
repealed
3. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
4. The short title of this Act is *The Agricultural Development Repeal Amendment Act, 1979*. Short title

---

## BILL 33

---

An Act to amend  
The Agricultural Development  
Repeal Act, 1973

---

*1st Reading*

March 29th, 1979

*2nd Reading*

May 24th, 1979

*3rd Reading*

May 24th, 1979

---

THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

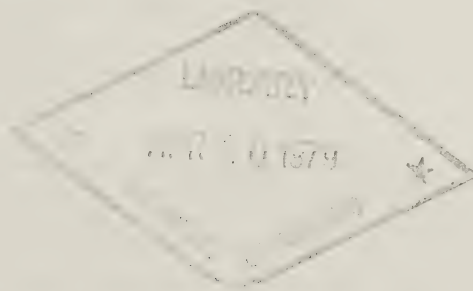
---

3RD SESSION, 31ST LEGISLATURE, <sup>1</sup>ONTARIO  
28 ELIZABETH II, 1979

*Legislative Assembly*

## An Act to amend The Business Corporations Act

THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations



#### EXPLANATORY NOTE

Amendments are being made to the Act changing administrative requirements in respect of filing articles of incorporation, articles of amendment, statements of resolutions, restatements of articles of incorporation, schemes, articles of amalgamation, articles of continuation and articles of dissolution.

The amendments basically affect administrative matters rather than substantive corporate law.

The principal changes are the following :

1. The requirement of issuing a separate certificate when matters are filed is removed; an endorsement on a duplicate original of a document will constitute a certificate.
2. Every corporation will be assigned a corporate number and, whereas, under the Act a corporation may have a number in its corporate name, the Bill defines "number name" and provides that where a corporation has a number name, it will consist of its corporation number.
3. The requirements to file various affidavits verifying signatures are being removed.
4. Wording to the effect that where articles conform to law the Minister shall file them is being removed.
5. Provision is being made for the mechanical reproduction of signatures.
6. Appeal from a decision of the Minister is to the Divisional Court by virtue of *The Judicature Act*; the Act is being updated to reflect this.
7. Procedure is set out for correcting errors in an endorsement.
8. Restrictions on the use of corporate names are largely removed from the Act and will be set out in regulations.

BILL 34

1979

## An Act to amend The Business Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 1 of *The Business Corporations Act*, s. 1 (1),  
being chapter 53 of the Revised Statutes of Ontario, 1970,<sup>amended</sup>  
as amended by the Statutes of Ontario, 1971, chapter 26, section 1, 1972, chapter 1, section 30, 1972, chapter 138, section 1, 1974, chapter 26, section 1 and 1978, chapter 49, section 1, is further amended by adding thereto the following paragraphs:

9a. "corporation number" means the number assigned by the Minister to a corporation in accordance with subsection 1 of section 6, and "number" in relation to a corporation means the corporation number of that corporation;

. . . . .

18b. "number name" means the name of a corporation which consists only of its corporation number followed by the word "Ontario" and one of the words or abbreviations provided for in subsection 1 of section 8.

2. Subsection 5 of section 4 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 98, section 4, Schedule,  
paragraph 4, is repealed.<sup>s. 4 (5),  
repealed</sup>
3. Section 5 of the said Act is repealed and the following substituted therefor:<sup>s. 5,  
re-enacted</sup>

5.—(1) Upon receiving duplicate original articles of incorporation, all other required documents executed in accordance with this Act and the prescribed fee, the Minister shall,  
Certificate  
of  
incorporation

- (a) endorse on each of the duplicate original articles a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the incorporators or their agents the other duplicate original.

Idem (2) The certificate endorsed in accordance with subsection 1 constitutes the certificate of incorporation and the corporation comes into existence upon the date set out therein.

Idem (3) A certificate of incorporation is conclusive proof that the corporation has been incorporated under this Act on the date set out in the certificate except in a proceeding under section 250 to cancel the certificate for cause.

s. 6,  
re-enacted 4. Section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 138, section 2, is repealed and the following substituted therefor:

Assignment  
of number 6.—(1) Every corporation shall be assigned a number by the Minister and such number shall be specified as the corporation number in the certificate of incorporation and in any other certificate issued by the Minister to the corporation.

Idem (2) Where no name is specified in the articles which are delivered to the Minister, the corporation shall be assigned a number name.

Idem (3) Where, through inadvertence or otherwise, the Minister has assigned to a corporation a corporation number or number name that is the same as the number or name of any other body corporate previously assigned by the Minister, the Minister may, without holding a hearing, issue a certificate of amendment to the articles changing the number or name assigned to the corporation and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Idem (4) Where for any reason the Minister has endorsed a certificate on articles that sets forth the corporation number incorrectly, the Minister may substitute a corrected certificate that shall bear the date of the certificate it replaces.

Idem (5) The file number which has been assigned to a corporation by the Minister prior to this section coming into force shall be deemed to be that corporation's number.

5. Section 7 of the said Act is repealed and the following substituted therefor: s. 7,  
re-enacted

7.—(1) Subject to subsection 2, a corporation shall not be incorporated with a name, Name  
prohibition

- (a) that contains a word or expression prohibited by the regulations;
- (b) that, except where a number name is proposed, is the same or similar to,
  - (i) the name of a known body corporate, trust, association, partnership, sole proprietorship, or individual, whether in existence or not, or
  - (ii) the name under which any body corporate, trust, association, partnership, sole proprietorship, or individual, carries on business or identifies itself,

if the use of that name would be likely to deceive.

- (c) that does not meet the requirements prescribed by the regulations.

(2) A corporation may be incorporated with a name described in clause *b* of subsection 1 upon complying with conditions prescribed by the regulations. Exception  
to subs. 1

(3) There shall be filed with the Minister such documents relating to the name of the corporation as may be prescribed by the regulations. Documents  
file

6. Section 8 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 138, section 3, is repealed and the following substituted therefor: s. 8,  
re-enacted

8.—(1) The word “Limited”, “Incorporated” or “Corporation” or the corresponding abbreviation “Ltd.”, “Inc.” or “Corp.” shall be the last word of the name of every corporation, but a corporation may use and may be legally designated by either the full or the abbreviated form. Use of  
“Limited”  
“Incorporated”  
“Corporation”

(2) Subject to the provisions of this Act and the regulations, a corporation may have in its articles of incorporation a special provision permitting it to set out its name in any language and the corporation may be legally designated by that name. Corporate  
name



Letters and  
numerals  
permitted

(3) Only letters from the alphabet of the English language or Arabic numerals or a combination thereof, together with such punctuation marks and other marks as are permitted by regulation, may form part of the name of a corporation.

Exception

(4) Subsection 3 does not apply to a name under subsection 2.

s. 10,  
re-enacted

7. Section 10 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 138, section 4, is repealed and the following substituted therefor:

Unauthorized  
use of  
"Limited",  
etc.

10.—(1) No person, partnership or association, while not incorporated, shall trade or carry on a business or undertaking under a name in which "Limited", "Incorporated" or "Corporation" or any abbreviation thereof, or any version thereof in another language, is used.

Idem

(2) Where a corporation carries on business or identifies itself to the public in a name or style other than as provided in the articles, that name or style shall not include the word "Limited", "Incorporated" or "Corporation", any abbreviation thereof or any version thereof in another language.

s. 11,  
re-enacted

8. Section 11 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 138, section 5, is repealed and the following substituted therefor:

Change of  
name if  
objectionable

11.—(1) If a corporation, through inadvertence or otherwise, has acquired a name contrary to section 7, the Minister may, after he has given the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Failure to  
perform  
undertaking

(2) Where an undertaking to dissolve or change its name is given by a corporation to which this Act applies and the undertaking is not carried out within the time specified, the Minister may, after giving the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Idem

(3) Where an undertaking to dissolve or change its name is given by a body corporate to which this Act does not apply, or by a trust, association, partnership, sole proprietorship or individual, and the undertaking is not carried out

within the time specified, the Minister may, after giving the corporation that acquired the name by virtue of such undertaking an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate, the articles are amended accordingly.

(4) Where the name of a corporation has been changed under proceedings taken under this section, the corporation may, subject to section 7, thereafter deliver to the Minister articles of amendment under the provisions of this Act changing its name to the name specified in the articles.

Change of  
name

9. Section 12 of the said Act is repealed.

s. 12,  
repealed

10. Subsection 2, and subsection 3 as enacted by the Statutes of Ontario, 1971, chapter 26, section 4, of section 25 of the said Act are repealed.

s. 25 (2, 3),  
repealed

11. Section 31 of the said Act is repealed and the following substituted therefor:

s. 31,  
re-enacted

31.—(1) For the purpose of bringing a resolution passed by the directors under subsection 2 of section 30 into effect, the corporation shall deliver to the Minister, within six months after the resolution has been passed, a statement in duplicate executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out,

Filing of  
statement

- (a) the name of the corporation;
- (b) a certified copy of the resolution;
- (c) that the resolution was duly passed by the directors;
- (d) the date of the passing of the resolution; and
- (e) that the conditions, if any, contained in the articles or in any prior resolution precedent to the creation and issue of the shares of the series have been complied with.

(2) Upon receiving duplicate original statements executed in accordance with this Act and the prescribed fee, the Minister shall,

Issuance of  
certificate

- (a) endorse on each of the duplicate original statements a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the corporation or its agents the other duplicate original.

Effect of  
certificate

(3) Upon the date set out in the certificate endorsed in accordance with subsection 2, the resolution referred to in subsection 2 of section 30 becomes effective and constitutes an amendment to the articles.

s. 190,  
re-enacted

**12.** Section 190 of the said Act is repealed and the following substituted therefor:

Articles of  
amendment

190.—(1) For the purpose of bringing an amendment to the articles into effect, the corporation shall deliver to the Minister, within six months after the resolution has become effective, articles of amendment in duplicate, executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out,

- (a) the name of the corporation;
- (b) a certified copy of the resolution;
- (c) that the amendment has been duly authorized as required by subsections 2, 3 and 4 of section 189; and
- (d) the date of the confirmation of the resolution by the shareholders.

Idem

(2) The articles of amendment shall not change the name of the corporation or decrease the authorized or issued capital of the corporation if,

- (a) it is insolvent; or
- (b) the amendment would render the corporation insolvent.

Evidence  
Minister may  
require

(3) The Minister may, if he thinks fit, require evidence that establishes to his satisfaction,

- (a) that the corporation is not insolvent;

- (b) that a decrease in authorized or issued capital will not render the corporation insolvent; and
- (c) that no creditors object to the amendment.

**13.** Section 191 of the said Act is repealed and the following s. 191, re-enacted substituted therefor:

191.—(1) Upon receiving duplicate original articles of amendment, all other required documents executed in accordance with this Act and the prescribed fee, the Minister shall, Certificate of amendment

- (a) endorse on each of the duplicate original articles a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one duplicate original in his office; and
- (c) return to the corporation or its agent the other duplicate original.

(2) The certificate endorsed in accordance with subsection 1 constitutes the certificate of amendment to the articles of incorporation and, upon the date set out in the certificate, the articles of incorporation are amended accordingly. Effect of certificate

**14.** Section 192 of the said Act is repealed and the following s. 192, re-enacted substituted therefor:

192.—(1) A corporation may at any time restate its articles of incorporation as theretofore amended. Restatement of articles

(2) For the purpose of bringing the restated articles into effect, the corporation shall deliver to the Minister the restated articles in duplicate, executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out, Filing of restatement

- (a) all the provisions that are then set out in the original articles of incorporation as theretofore amended; and
- (b) a statement that the restated articles correctly set out without change the corresponding provisions of the original articles as theretofore amended.

(3) Upon receiving duplicate original restated articles of incorporation restated in accordance with this Act and the prescribed fee, the Minister shall, Restatement of certificate

- (a) endorse on each of the duplicate original restated articles a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the corporation or its agent the other duplicate original.

Effect of  
certificate

(4) The certificate endorsed in accordance with subsection 3 constitutes the restated certificate of incorporation of the corporation and the restated articles of incorporation become effective upon the date set out therein and supersede the original articles of incorporation and all amendments thereto.

s. 195,  
re-enacted

**15.** Section 195 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 26, section 33, is repealed and the following substituted therefor:

Scheme

195.—(1) For the purpose of bringing a scheme into effect, the corporation shall, within six months of the approval of the scheme by the court, deliver to the Minister a statement in duplicate executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out,

- (a) the name of the corporation;
- (b) a certified copy of the scheme;
- (c) a certified copy of the order of the court; and
- (d) that the terms and conditions, if any, to which the scheme is made subject by the order have been complied with.

Certificate

(2) Upon receiving the duplicate original statements, all other required documents executed in accordance with this Act, and the prescribed fee, the Minister shall,

- (a) endorse on each of the duplicate original statements a certificate setting out the day, month and year of the endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the corporation or its agent the other duplicate original.



(3) Upon the date set out in the certificate endorsed in accordance with subsection 2, the scheme becomes effective and constitutes an amendment to the articles. Effect of certificate

**16.** Section 197 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 26, section 35, is repealed and the following substituted therefor: s. 197, re-enacted

197.—(1) For the purpose of bringing an amalgamation into effect, the amalgamating corporations shall, within six months after the amalgamation agreement has become effective, deliver to the Minister articles of amalgamation in duplicate executed under the seal of each of the amalgamating corporations and signed by two officers, or by one director and one officer, of each of the amalgamating corporations setting out, Filing of articles of amalgamation

- (a) the names of each of the amalgamating corporations;
- (b) a certified copy of the amalgamation agreement;
- (c) that the agreement has been duly approved as required by section 196; and
- (d) the dates on which the amalgamation agreement was approved by the shareholders of each of the amalgamating corporations.

(2) Notwithstanding subsection 1 of section 196, no corporation that is insolvent shall amalgamate and the Minister, before proceeding as provided in subsection 3, may require evidence that establishes to his satisfaction that a corporation delivering articles under subsection 1 is not insolvent. Corporation to be solvent

(3) Upon receiving duplicate original articles of amalgamation, all other required documents executed in accordance with this Act and the prescribed fee, the Minister shall, Certificate of amalgamation

- (a) endorse on each of the duplicate original articles of amalgamation a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the amalgamated corporation or its agent the other duplicate original.

Idem

(4) The certificate endorsed in accordance with subsection 3 constitutes the certificate of amalgamation of the amalgamating corporations and upon the date set out therein,

- (a) the amalgamation becomes effective and the amalgamating corporations are amalgamated and continue as one corporation under the terms and conditions set out in the amalgamation agreement;
- (b) the amalgamated corporation possesses all the property, rights, privileges and franchises and is subject to all liabilities, contracts, disabilities and debts of each of the amalgamating corporations;
- (c) the issued capital of the amalgamated corporation is, subject to the decrease provided for in subsection 3 of section 196, equal to the aggregate of the issued capital of each of the amalgamating corporations immediately before the amalgamation becomes effective; and
- (d) the articles of incorporation of each of the amalgamating corporations are amended to the extent necessary to give effect to the terms and conditions of the amalgamation agreement.

s. 198 (2),  
amended

**17.—**(1) Subsection 2 of section 198 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 138, section 55, is amended by striking out "and verified by affidavit of one of the officers or directors signing the articles of continuation" in the forty-sixth, forty-seventh and forty-eighth lines.

s. 198 (4-6),  
re-enacted

(2) Subsections 4, 5 and 6 of the said section 198, are repealed and the following substituted therefor:

Certificate

(4) Upon receiving duplicate original articles of continuation, all other required documents executed in accordance with this Act and the prescribed fee, the Minister may,

- (a) endorse on each of the duplicate original articles of continuation a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the corporation or its agent the other duplicate original.

(5) The certificate endorsed in accordance with subsection 4 constitutes the certificate of continuation of the body corporate and the Minister may endorse the certificate upon such terms and subject to such limitations, conditions and provisions as to the Minister appear proper. Conditions

(6) Upon the date set out in a certificate of continuation endorsed in accordance with subsections 3 and 5, this Act applies to the body corporate to the same extent as if it had been incorporated under this Act. Effective date

**18.—**(1) Subsection 1 of section 248 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 138, section 57, is repealed and the following substituted therefor: s. 248 (1),  
re-enacted

(1) For the purpose of bringing the dissolution authorized under clause *a* or *b* of section 247 into effect, the corporation shall deliver to the Minister articles of dissolution in duplicate, executed under seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out, Articles of  
dissolution  
where  
corporation  
active

- (a) the name of the corporation;
- (b) that its dissolution has been duly authorized under clause *a* or *b* of section 247;
- (c) that it has no debts, obligations or liabilities or its debts, obligations or liabilities have been duly provided for in accordance with subsection 3 or its creditors or other persons having interests in its debts, obligations or liabilities consent to its dissolution;
- (d) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute among its shareholders or that it has distributed its remaining property rateably among its shareholders according to their rights and interests in the corporation or in accordance with subsection 4 where applicable;
- (e) that there are no proceedings pending in any court against it; and
- (f) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its principal place of business in Ontario or, if it does not have a place of business in Ontario, where it has its head office.



s. 248 (2),  
amended

- (2) Subsection 2 of the said section 248, as amended by the Statutes of Ontario, 1971, chapter 26, section 39, is further amended by striking out "and verified by affidavit of one of them" in the fourth and fifth lines.

ss. 249, 250,  
re-enacted

- 19.** Sections 249 and 250 of the said Act are repealed and the following substituted therefor:

Certificate  
of  
dissolution

249.—(1) Upon receiving duplicate original articles of dissolution, all other required documents executed in accordance with this Act, the prescribed fee and evidence that all taxes payable by the corporation to the Treasurer of Ontario have been paid, the Minister shall,

- (a) endorse on each of the duplicate original articles of dissolution, a certificate setting forth the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office;
- (c) return to the persons who executed the articles of dissolution, or their agents, the other duplicate original.

Effect of  
certificate

(2) The certificate endorsed in accordance with subsection 1 constitutes the certificate of dissolution of the corporation and the dissolution becomes effective and the corporation is dissolved upon the date set out therein.

Cancellation  
of  
certificate,  
etc., by  
Minister

250. Where sufficient cause is shown to the Minister, he may, after he has given the corporation an opportunity to be heard, by order, upon such terms as he thinks fit, cancel a certificate of incorporation or any certificate issued or endorsed by him under this Act, and,

- (a) in the case of the cancellation of a certificate of incorporation, the corporation is dissolved on the date fixed in the order; and
- (b) in the case of the cancellation of any other certificate, the matter that became effective upon the issuance or endorsement of the certificate ceases to be in effect from the date fixed in the order.

s. 264,  
re-enacted

- 20.** Section 264 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 26, section 44, is repealed and the following substituted therefor:

Publication  
of notices in  
*The Ontario  
Gazette*

264. The Minister shall cause notice to be published forthwith in *The Ontario Gazette*,

- (a) of the endorsement of every certificate under section 5, 31, 191, 195, 197, 198 or 249;
- (b) of the issue of every certificate under section 11;
- (c) of the filing of a certified copy of an order under subsection 6 of section 215 or subsection 2 of section 228;
- (d) of the filing of a notice by a liquidator under subsection 2 of section 215; and
- (e) of the issue of every order under section 161, 250 or 251.

**21.** Section 266 of the said Act is amended by adding thereto the following subsection: s. 266,  
amended

(3) For the purposes of subsections 1 and 2, any signature of the Minister or any signature of an officer of the Ministry designated by the regulations may be printed or otherwise mechanically reproduced. Reproduction  
of  
signature

**22.** The said Act is amended by adding thereto the following sections: ss. 266a, 266b,  
enacted

**266a.** A certificate or authorization referred to in sections 5, 31, 191, 195, 197, 198, 199 and 249 or an order referred to in subsection 4 of section 251 shall be dated as of the day the Minister receives the duplicate originals of any articles, statement or application together with all other required documents executed in accordance with this Act and the prescribed fee, or as of any later date acceptable to the Minister and specified by the person who signed the articles, statement or application. Date of  
certificate

**266b.**—(1) If a certificate is endorsed by the Minister on articles or any other document that contains an error, the directors or shareholders of the corporation shall, upon the request of the Minister, pass the resolutions and send to him the documents required to comply with this Act, and take such other steps as the Minister may reasonably require, and the Minister may order the surrender of the certificate and endorse a corrected certificate on the articles or any other document after giving the corporation an opportunity to be heard. Corrected  
certificate

(2) A certificate corrected under subsection 1 shall bear the date of the certificate it replaces and shall be deemed to be in effect on that date. Date

Notice

(3) If a corrected certificate issued under subsection 1 materially amends the terms of the original certificate, the Minister shall forthwith give notice of the correction in *The Ontario Gazette*.

s. 267,  
re-enacted

**23.** Section 267 of the said Act is repealed and the following substituted therefor:

Notice of  
refusal  
to file

267.—(1) Where the Minister refuses to endorse a certificate on articles or any other document required by this Act to be endorsed with a certificate by him before it becomes effective, he shall give written notice to the person who delivered the articles or other document of his refusal, specifying the reasons therefor.

Failure to  
act deemed  
refusal

(2) Where, within six months after the delivery to the Minister of articles or other documents referred to in subsection 1, the Minister has not endorsed a certificate on such articles or other document, he shall be deemed for the purposes of section 268 to have refused to endorse it.

s. 268 (1),  
re-enacted

**24.**—(1) Subsection 1 of section 268 of the said Act is repealed and the following substituted therefor:

Appeal from  
Minister to  
Divisional  
Court

(1) Any person who feels aggrieved by a decision of the Minister to,

(a) refuse to endorse a certificate on articles or any other document;

(b) issue or refuse to issue a certificate of amendment under subsection 1, 2 or 3 of section 11;

(c) issue an order under section 250;

(d) order the surrender of a certificate under section 266b,

may appeal the decision to the Supreme Court.

s. 268 (5),  
amended

(2) Subsection 5 of the said section 268 is amended by striking out "of Appeal" in the first and second lines.

s. 268 (6),  
amended

(3) Subsection 6 of the said section 268 is amended by striking out "of Appeal" in the first line.

s. 271,  
amended

**25.** Section 271 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 49, section 17, is further amended by adding thereto the following clauses:

(g) prohibiting the use of any words or expressions in a corporate name;

- (h) prescribing requirements for the purposes of clause *c* of subsection 1 of section 7;
- (i) prescribing conditions for the purposes of subsection 2 of section 7;
- (j) respecting the content of a special language provision referred to in subsection 2 of section 8;
- (k) defining any word or expression used in clause *b* of subsection 1 of section 7.

- 26.** This Act comes into force on the 1st day of September, 1979. Commence-  
ment
- 27.** The short title of this Act is *The Business Corporations Amendment Act, 1979*. Short title















---

An Act to amend  
The Business Corporations Act

---

*1st Reading*

March 29th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations

---

*(Government Bill)*

10-0N  
B  
-B56

3  
F BILL 34

Government  
Publications

Government Bill

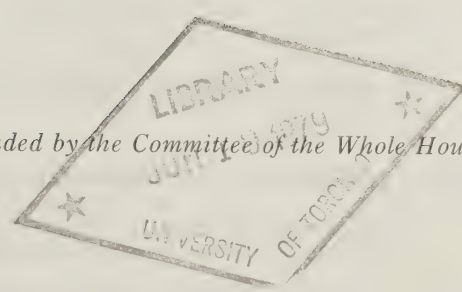
3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

Legislative Assembly  
111

# An Act to amend The Business Corporations Act

THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations

*(Reprinted as amended by the Committee of the Whole House)*



#### EXPLANATORY NOTE

Amendments are being made to the Act changing administrative requirements in respect of filing articles of incorporation, articles of amendment, statements of resolutions, restatements of articles of incorporation, schemes, articles of amalgamation, articles of continuation and articles of dissolution.

The amendments basically affect administrative matters rather than substantive corporate law.

The principal changes are the following :

1. The requirement of issuing a separate certificate when matters are filed is removed; an endorsement on a duplicate original of a document will constitute a certificate.
2. Every corporation will be assigned a corporate number and, whereas, under the Act a corporation may have a number in its corporate name, the Bill defines "number name" and provides that where a corporation has a number name, it will consist of its corporation number.
3. The requirements to file various affidavits verifying signatures are being removed.
4. Wording to the effect that where articles conform to law the Minister shall file them is being removed.
5. Provision is being made for the mechanical reproduction of signatures.
6. Appeal from a decision of the Minister is to the Divisional Court by virtue of *The Judicature Act*; the Act is being updated to reflect this.
7. Procedure is set out for correcting errors in an endorsement.
8. Restrictions on the use of corporate names are largely removed from the Act and will be set out in regulations.

BILL 34

1979

## An Act to amend The Business Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 1 of *The Business Corporations Act*, <sup>s. 1 (1),  
amended</sup> being chapter 53 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 26, section 1, 1972, chapter 1, section 30, 1972, chapter 138, section 1, 1974, chapter 26, section 1 and 1978, chapter 49, section 1, is further amended by adding thereto the following paragraphs:

9a. "corporation number" means the number assigned by the Minister to a corporation in accordance with subsection 1 of section 6, and "number" in relation to a corporation means the corporation number of that corporation;

. . . . .

18b. "number name" means the name of a corporation which consists only of its corporation number followed by the word "Ontario" and one of the words or abbreviations provided for in subsection 1 of section 8.

2. Subsection 5 of section 4 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 98, section 4, Schedule, <sup>s. 4 (5),  
repealed</sup> paragraph 4, is repealed.
3. Section 5 of the said Act is repealed and the following substituted therefor: <sup>s. 5,  
re-enacted</sup>

5.—(1) Upon receiving duplicate original articles of incorporation, all other required documents executed in accordance with this Act and the prescribed fee, the Minister shall, <sup>Certificate  
of  
incorporation</sup>

- (a) endorse on each of the duplicate original articles a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the incorporators or their agents the other duplicate original.

Idem (2) The certificate endorsed in accordance with subsection 1 constitutes the certificate of incorporation and the corporation comes into existence upon the date set out therein.

Idem (3) A certificate of incorporation is conclusive proof that the corporation has been incorporated under this Act on the date set out in the certificate except in a proceeding under section 250 to cancel the certificate for cause.

s. 6,  
re-enacted 4. Section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 138, section 2, is repealed and the following substituted therefor:

Assignment  
of number 6.—(1) Every corporation shall be assigned a number by the Minister and such number shall be specified as the corporation number in the certificate of incorporation and in any other certificate issued by the Minister to the corporation.

Idem (2) Where no name is specified in the articles which are delivered to the Minister, the corporation shall be assigned a number name.

Idem (3) Where, through inadvertence or otherwise, the Minister has assigned to a corporation a corporation number or number name that is the same as the number or name of any other body corporate previously assigned by the Minister, the Minister may, without holding a hearing, issue a certificate of amendment to the articles changing the number or name assigned to the corporation and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Idem (4) Where for any reason the Minister has endorsed a certificate on articles that sets forth the corporation number incorrectly, the Minister may substitute a corrected certificate that shall bear the date of the certificate it replaces.

Idem (5) The file number which has been assigned to a corporation by the Minister prior to this section coming into force shall be deemed to be that corporation's number.

5. Section 7 of the said Act is repealed and the following substituted therefor: s. 7.  
re-enacted

7.—(1) Subject to subsection 2, a corporation shall not be incorporated with a name, Name  
prohibition

- (a) that contains a word or expression prohibited by the regulations;
- (b) that, except where a number name is proposed, is the same or similar to,
  - (i) the name of a known body corporate, trust, association, partnership, sole proprietorship, or individual, whether in existence or not, or
  - (ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship, or individual, carries on business or identifies itself,

if the use of that name would be likely to deceive;

- (c) that does not meet the requirements prescribed by the regulations.

(2) A corporation may be incorporated with a name described in clause *b* of subsection 1 upon complying with conditions prescribed by the regulations. Exception  
to subs. 1

(3) There shall be filed with the Minister such documents relating to the name of the corporation as may be prescribed by the regulations. Documents  
file

6. Section 8 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 138, section 3, is repealed and the following substituted therefor: s. 8.  
re-enacted

8.—(1) The word “Limited”, “Incorporated” or “Corporation” or the corresponding abbreviation “Ltd.”, “Inc.” or “Corp.” shall be the last word of the name of every corporation, but a corporation may use and may be legally designated by either the full or the abbreviated form. Use of  
“Limited”  
“Incorporated”  
“Corporation”

(2) Subject to the provisions of this Act and the regulations, a corporation may have in its articles of incorporation a special provision permitting it to set out its name in any language and the corporation may be legally designated by that name. Corporate  
name



Letters and  
numerals  
permitted

(3) Only letters from the alphabet of the English language or Arabic numerals or a combination thereof, together with such punctuation marks and other marks as are permitted by regulation, may form part of the name of a corporation.

Exception

(4) Subsection 3 does not apply to a name under subsection 2.

s. 10,  
re-enacted

7. Section 10 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 138, section 4, is repealed and the following substituted therefor:

Unauthorized  
use of  
"Limited",  
etc.

10.—(1) No person, partnership or association, while not incorporated, shall trade or carry on a business or undertaking under a name in which "Limited", "Incorporated" or "Corporation" or any abbreviation thereof, or any version thereof in another language, is used.

Idem

(2) Where a corporation carries on business or identifies itself to the public in a name or style other than as provided in the articles, that name or style shall not include the word "Limited", "Incorporated" or "Corporation", any abbreviation thereof or any version thereof in another language.

s. 11,  
re-enacted

8. Section 11 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 138, section 5, is repealed and the following substituted therefor:

Change of  
name if  
objectionable

11.—(1) If a corporation, through inadvertence or otherwise, has acquired a name contrary to section 7, the Minister may, after he has given the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Failure to  
perform  
undertaking

(2) Where an undertaking to dissolve or change its name is given by a corporation to which this Act applies and the undertaking is not carried out within the time specified, the Minister may, after giving the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Idem

(3) Where an undertaking to dissolve or change its name is given by a body corporate to which this Act does not apply, or by a trust, association, partnership, sole proprietorship or individual, and the undertaking is not carried out

within the time specified, the Minister may, after giving the corporation that acquired the name by virtue of such undertaking an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate, the articles are amended accordingly.

(4) Where the name of a corporation has been changed <sup>Change of name</sup> under proceedings taken under this section, the corporation may, subject to section 7, thereafter deliver to the Minister articles of amendment under the provisions of this Act changing its name to the name specified in the articles.

9. Section 12 of the said Act is repealed.

s. 12,  
repealed

10. Subsection 2, and subsection 3 as enacted by the Statutes of Ontario, 1971, chapter 26, section 4, of section 25 of the said Act are repealed.

s. 25 (2, 3),  
repealed

11. Section 31 of the said Act is repealed and the following substituted therefor:

s. 31,  
re-enacted

31.—(1) For the purpose of bringing a resolution passed <sup>Filing of statement</sup> by the directors under subsection 2 of section 30 into effect, the corporation shall deliver to the Minister, within six months after the resolution has been passed, a statement in duplicate executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out,

- (a) the name of the corporation;
- (b) a certified copy of the resolution;
- (c) that the resolution was duly passed by the directors;
- (d) the date of the passing of the resolution; and
- (e) that the conditions, if any, contained in the articles or in any prior resolution precedent to the creation and issue of the shares of the series have been complied with.

(2) Upon receiving duplicate original statements executed <sup>Issuance of certificate</sup> in accordance with this Act and the prescribed fee, the Minister shall,

- (a) endorse on each of the duplicate original statements a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the corporation or its agents the other duplicate original.

Effect of  
certificate

(3) Upon the date set out in the certificate endorsed in accordance with subsection 2, the resolution referred to in subsection 2 of section 30 becomes effective and constitutes an amendment to the articles.

s. 190,  
re-enacted

**12.** Section 190 of the said Act is repealed and the following substituted therefor:

Articles of  
amendment

190.—(1) For the purpose of bringing an amendment to the articles into effect, the corporation shall deliver to the Minister, within six months after the resolution has become effective, articles of amendment in duplicate, executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out,

- (a) the name of the corporation;
- (b) a certified copy of the resolution;
- (c) that the amendment has been duly authorized as required by subsections 2, 3 and 4 of section 189; and
- (d) the date of the confirmation of the resolution by the shareholders.

Idem

(2) The articles of amendment shall not change the name of the corporation or decrease the authorized or issued capital of the corporation if,

- (a) it is insolvent; or
- (b) the amendment would render the corporation insolvent.

Evidence  
Minister may  
require

(3) The Minister may, if he thinks fit, require evidence that establishes to his satisfaction,

- (a) that the corporation is not insolvent;

- (b) that a decrease in authorized or issued capital will not render the corporation insolvent; and
- (c) that no creditors object to the amendment.

**13.** Section 191 of the said Act is repealed and the following <sup>s. 191, re-enacted</sup> substituted therefor:

191.—(1) Upon receiving duplicate original articles of amendment, all other required documents executed in accordance with this Act and the prescribed fee, the Minister shall,

- (a) endorse on each of the duplicate original articles a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one duplicate original in his office; and
- (c) return to the corporation or its agent the other duplicate original.

(2) The certificate endorsed in accordance with subsection 1 constitutes the certificate of amendment to the articles of incorporation and, upon the date set out in the certificate, the articles of incorporation are amended accordingly. <sup>Effect of certificate</sup>

**14.** Section 192 of the said Act is repealed and the following <sup>s. 192, re-enacted</sup> substituted therefor:

192.—(1) A corporation may at any time restate its articles of incorporation as theretofore amended. <sup>Restatement of articles</sup>

(2) For the purpose of bringing the restated articles into effect, the corporation shall deliver to the Minister the restated articles in duplicate, executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out, <sup>Filing of restatement</sup>

- (a) all the provisions that are then set out in the original articles of incorporation as theretofore amended; and
- (b) a statement that the restated articles correctly set out without change the corresponding provisions of the original articles as theretofore amended.

(3) Upon receiving duplicate original restated articles of incorporation restated in accordance with this Act and the prescribed fee, the Minister shall, <sup>Restatement of certificate</sup>





(3) Upon the date set out in the certificate endorsed in accordance with subsection 2, the scheme becomes effective and constitutes an amendment to the articles. <sup>Effect of certificate</sup>

- 16.** Section 197 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 26, section 35, is repealed and the following substituted therefor: <sup>s. 197, re-enacted</sup>

197.—(1) For the purpose of bringing an amalgamation into effect, the amalgamating corporations shall, within six months after the amalgamation agreement has become effective, deliver to the Minister articles of amalgamation in duplicate executed under the seal of each of the amalgamating corporations and signed by two officers, or by one director and one officer, of each of the amalgamating corporations setting out, <sup>Filing of articles of amalgamation</sup>

- (a) the names of each of the amalgamating corporations;
- (b) a certified copy of the amalgamation agreement;
- (c) that the agreement has been duly approved as required by section 196; and
- (d) the dates on which the amalgamation agreement was approved by the shareholders of each of the amalgamating corporations.

(2) Notwithstanding subsection 1 of section 196, no corporation that is insolvent shall amalgamate and the Minister, before proceeding as provided in subsection 3, may require evidence that establishes to his satisfaction that a corporation delivering articles under subsection 1 is not insolvent. <sup>Corporation to be solvent</sup>

(3) Upon receiving duplicate original articles of amalgamation, all other required documents executed in accordance with this Act and the prescribed fee, the Minister shall, <sup>Certificate of amalgamation</sup>

- (a) endorse on each of the duplicate original articles of amalgamation a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the amalgamated corporation or its agent the other duplicate original.

Idem

(4) The certificate endorsed in accordance with subsection 3 constitutes the certificate of amalgamation of the amalgamating corporations and upon the date set out therein,

- (a) the amalgamation becomes effective and the amalgamating corporations are amalgamated and continue as one corporation under the terms and conditions set out in the amalgamation agreement;
- (b) the amalgamated corporation possesses all the property, rights, privileges and franchises and is subject to all liabilities, contracts, disabilities and debts of each of the amalgamating corporations;
- (c) the issued capital of the amalgamated corporation is, subject to the decrease provided for in subsection 3 of section 196, equal to the aggregate of the issued capital of each of the amalgamating corporations immediately before the amalgamation becomes effective; and
- (d) the articles of incorporation of each of the amalgamating corporations are amended to the extent necessary to give effect to the terms and conditions of the amalgamation agreement.

s. 198 (2),  
amended

**17.**—(1) Subsection 2 of section 198 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 138, section 55, is amended by striking out “and verified by affidavit of one of the officers or directors signing the articles of continuation” in the forty-sixth, forty-seventh and forty-eighth lines.

s. 198 (4-6),  
re-enacted

(2) Subsections 4, 5 and 6 of the said section 198, are repealed and the following substituted therefor:

Certificate

(4) Upon receiving duplicate original articles of continuation, all other required documents executed in accordance with this Act and the prescribed fee, the Minister may,

- (a) endorse on each of the duplicate original articles of continuation a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the corporation or its agent the other duplicate original.

(5) The certificate endorsed in accordance with subsection 4 constitutes the certificate of continuation of the body corporate and the Minister may endorse the certificate upon such terms and subject to such limitations, conditions and provisions as to the Minister appear proper. <sup>Conditions</sup>

(6) Upon the date set out in a certificate of continuation endorsed in accordance with subsections 3 and 5, this Act applies to the body corporate to the same extent as if it had been incorporated under this Act. <sup>Effective date</sup>

**18.—**(1) Subsection 1 of section 248 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 138, section 57, is repealed and the following substituted therefor: <sup>s. 248 (1), re-enacted</sup>

(1) For the purpose of bringing the dissolution authorized under clause *a* or *b* of section 247 into effect, the corporation shall deliver to the Minister articles of dissolution in duplicate, executed under seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out, <sup>Articles of dissolution where corporation active</sup>

- (a) the name of the corporation;
- (b) that its dissolution has been duly authorized under clause *a* or *b* of section 247;
- (c) that it has no debts, obligations or liabilities or its debts, obligations or liabilities have been duly provided for in accordance with subsection 3 or its creditors or other persons having interests in its debts, obligations or liabilities consent to its dissolution;
- (d) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute among its shareholders or that it has distributed its remaining property rateably among its shareholders according to their rights and interests in the corporation or in accordance with subsection 4 where applicable;
- (e) that there are no proceedings pending in any court against it; and
- (f) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its principal place of business in Ontario or, if it does not have a place of business in Ontario, where it has its head office.



s. 248 (2),  
amended

- (2) Subsection 2 of the said section 248, as amended by the Statutes of Ontario, 1971, chapter 26, section 39, is further amended by striking out "and verified by affidavit of one of them" in the fourth and fifth lines.

ss. 249, 250,  
re-enacted

- 19.** Sections 249 and 250 of the said Act are repealed and the following substituted therefor:

Certificate  
of  
dissolution

249.—(1) Upon receiving duplicate original articles of dissolution, all other required documents executed in accordance with this Act, the prescribed fee and evidence that all taxes payable by the corporation to the Treasurer of Ontario have been paid, the Minister shall,

- (a) endorse on each of the duplicate original articles of dissolution, a certificate setting forth the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office;
- (c) return to the persons who executed the articles of dissolution, or their agents, the other duplicate original.

Effect of  
certificate

(2) The certificate endorsed in accordance with subsection 1 constitutes the certificate of dissolution of the corporation and the dissolution becomes effective and the corporation is dissolved upon the date set out therein.

Cancellation  
of  
certificate,  
etc., by  
Minister

250. Where sufficient cause is shown to the Minister, he may, after he has given the corporation an opportunity to be heard, by order, upon such terms as he thinks fit, cancel a certificate of incorporation or any certificate issued or endorsed by him under this Act, and,

- (a) in the case of the cancellation of a certificate of incorporation, the corporation is dissolved on the date fixed in the order; and
- (b) in the case of the cancellation of any other certificate, the matter that became effective upon the issuance or endorsement of the certificate ceases to be in effect from the date fixed in the order.

s. 264,  
re-enacted

- 20.** Section 264 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 26, section 44, is repealed and the following substituted therefor:

Publication  
of notices in  
*The Ontario  
Gazette*

264. The Minister shall cause notice to be published forthwith in *The Ontario Gazette*,

- (a) of the endorsement of every certificate under section 5, 31, 191, 195, 197, 198 or 249;
- (b) of the issue of every certificate under section 11;
- (c) of the filing of a certified copy of an order under subsection 6 of section 215 or subsection 2 of section 228;
- (d) of the filing of a notice by a liquidator under subsection 2 of section 215; and
- (e) of the issue of every order under section 161, 250 or 251.

**21.** Section 266 of the said Act is amended by adding thereto the following subsection: s. 266,  
amended

(3) For the purposes of subsections 1 and 2, any signature of the Minister or any signature of an officer of the Ministry designated by the regulations may be printed or otherwise mechanically reproduced. Reproduction  
of  
signature

**22.** The said Act is amended by adding thereto the following sections: ss. 266a, 266b,  
enacted

266a.—(1) A certificate or authorization referred to in sections 5, 31, 191, 195, 197, 198, 199, and 249 or an order referred to in subsection 4 of section 251 shall be dated as of the day the Minister receives the duplicate originals of any articles, statement or application together with all other required documents executed in accordance with this Act and the prescribed fee, or as of any later date acceptable to the Minister and specified by the person who signed the articles, statement or application. Date of  
certificate

(2) Articles filed by the Minister under this Act shall have effect from the date of the certificate endorsed thereon notwithstanding that any action required to be taken by the Minister under this Act with respect to the endorsement of the certificate and filing by him is taken at a later date. Date of  
articles

266b.—(1) If a certificate is endorsed by the Minister on articles or any other document that contains an error, the directors or shareholders of the corporation shall, upon the request of the Minister, pass the resolutions and send to him the documents required to comply with this Act, and take such other steps as the Minister may reasonably require, and the Minister may order the surrender of the certificate and endorse a corrected certificate on the articles or any other document after giving the corporation an opportunity to be heard. Corrected  
certificate

Date

(2) A certificate corrected under subsection 1 shall bear the date of the certificate it replaces and shall be deemed to be in effect on that date.

Notice

(3) If a corrected certificate issued under subsection 1 materially amends the terms of the original certificate, the Minister shall forthwith give notice of the correction in *The Ontario Gazette*.

s. 267,  
re-enacted

**23.** Section 267 of the said Act is repealed and the following substituted therefor:

Notice of  
refusal  
to file

267.—(1) Where the Minister refuses to endorse a certificate on articles or any other document required by this Act to be endorsed with a certificate by him before it becomes effective, he shall give written notice to the person who delivered the articles or other document of his refusal, specifying the reasons therefor.

Failure to  
act deemed  
refusal

(2) Where, within six months after the delivery to the Minister of articles or other documents referred to in subsection 1, the Minister has not endorsed a certificate on such articles or other document, he shall be deemed for the purposes of section 268 to have refused to endorse it.

s. 268 (1),  
re-enacted

**24.**—(1) Subsection 1 of section 268 of the said Act is repealed and the following substituted therefor:

Appeal from  
Minister to  
Divisional  
Court

(1) Any person who feels aggrieved by a decision of the Minister to,

- (a) refuse to endorse a certificate on articles or any other document;
- (b) issue or refuse to issue a certificate of amendment under subsection 1, 2 or 3 of section 11;
- (c) issue an order under section 250;
- (d) order the surrender of a certificate under section 266b,

may appeal the decision to the Supreme Court.

s. 268 (5),  
amended

(2) Subsection 5 of the said section 268 is amended by striking out "of Appeal" in the first and second lines.

s. 268 (6),  
amended

(3) Subsection 6 of the said section 268 is amended by striking out "of Appeal" in the first line.

s. 271,  
amended

**25.** Section 271 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 49, section 17, is further amended by adding thereto the following clauses:

- (g) prohibiting the use of any words or expressions in a corporate name;
- (h) prescribing requirements for the purposes of clause *c* of subsection 1 of section 7;
- (i) prescribing conditions for the purposes of subsection 2 of section 7;
- (j) respecting the content of a special language provision referred to in subsection 2 of section 8 permitting punctuation marks and other marks referred to in subsection 3 of section 8;
- (k) defining any word or expression used in clause *b* of subsection 1 of section 7;
- (l) prescribing the matters that the Minister shall take into consideration in determining whether a name is contrary to section 7.

**26.** This Act comes into force on the 1st day of September, 1979. Commence-  
ment

**27.** The short title of this Act is *The Business Corporations Amendment Act, 1979*. Short title





---

An Act to amend  
The Business Corporations Act

---

*1st Reading*

March 29th, 1979

*2nd Reading*

May 17th, 1979

*3rd Reading*

---

THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations

---

(Reprinted as amended by the  
Committee of the Whole House)

A2001  
X.D.  
-B56

7  
F BILL 34

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend The Business Corporations Act**

THE HON. FRANK DREA  
Minister of Consumer and Commercial Relations







BILL 34

1979

## An Act to amend The Business Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 1 of *The Business Corporations Act*, <sup>s. 1 (1),  
amended</sup> being chapter 53 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 26, section 1, 1972, chapter 1, section 30, 1972, chapter 138, section 1, 1974, chapter 26, section 1 and 1978, chapter 49, section 1, is further amended by adding thereto the following paragraphs:

9a. "corporation number" means the number assigned by the Minister to a corporation in accordance with subsection 1 of section 6, and "number" in relation to a corporation means the corporation number of that corporation;

. . . . .

18b. "number name" means the name of a corporation which consists only of its corporation number followed by the word "Ontario" and one of the words or abbreviations provided for in subsection 1 of section 8.

2. Subsection 5 of section 4 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 98, section 4, Schedule, <sup>s. 4 (5),  
repealed</sup> paragraph 4, is repealed.
3. Section 5 of the said Act is repealed and the following sub- <sup>s. 5,  
re-enacted</sup> stituted therefor:

5.—(1) Upon receiving duplicate original articles of in- <sup>Certificate  
of  
incorporation</sup> corporation, all other required documents executed in accordance with this Act and the prescribed fee, the Minister shall,

- (a) endorse on each of the duplicate original articles a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the incorporators or their agents the other duplicate original.

Idem (2) The certificate endorsed in accordance with subsection 1 constitutes the certificate of incorporation and the corporation comes into existence upon the date set out therein.

Idem (3) A certificate of incorporation is conclusive proof that the corporation has been incorporated under this Act on the date set out in the certificate except in a proceeding under section 250 to cancel the certificate for cause.

s. 6,  
re-enacted

4. Section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 138, section 2, is repealed and the following substituted therefor:

Assignment  
of number

6.—(1) Every corporation shall be assigned a number by the Minister and such number shall be specified as the corporation number in the certificate of incorporation and in any other certificate issued by the Minister to the corporation.

Idem (2) Where no name is specified in the articles which are delivered to the Minister, the corporation shall be assigned a number name.

Idem (3) Where, through inadvertence or otherwise, the Minister has assigned to a corporation a corporation number or number name that is the same as the number or name of any other body corporate previously assigned by the Minister, the Minister may, without holding a hearing, issue a certificate of amendment to the articles changing the number or name assigned to the corporation and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Idem (4) Where for any reason the Minister has endorsed a certificate on articles that sets forth the corporation number incorrectly, the Minister may substitute a corrected certificate that shall bear the date of the certificate it replaces.

Idem (5) The file number which has been assigned to a corporation by the Minister prior to this section coming into force shall be deemed to be that corporation's number.

5. Section 7 of the said Act is repealed and the following substituted therefor: s. 7,  
re-enacted

7.—(1) Subject to subsection 2, a corporation shall not be incorporated with a name, Name  
prohibition

(a) that contains a word or expression prohibited by the regulations;

(b) that, except where a number name is proposed, is the same or similar to,

(i) the name of a known body corporate, trust, association, partnership, sole proprietorship, or individual, whether in existence or not, or

(ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship, or individual, carries on business or identifies itself,

if the use of that name would be likely to deceive;

(c) that does not meet the requirements prescribed by the regulations.

(2) A corporation may be incorporated with a name described in clause *b* of subsection 1 upon complying with conditions prescribed by the regulations. Exception  
to subs. 1

(3) There shall be filed with the Minister such documents relating to the name of the corporation as may be prescribed by the regulations. Documents  
file

6. Section 8 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 138, section 3, is repealed and the following substituted therefor: s. 8,  
re-enacted

8.—(1) The word “Limited”, “Incorporated” or “Corporation” or the corresponding abbreviation “Ltd.”, “Inc.” or “Corp.” shall be the last word of the name of every corporation, but a corporation may use and may be legally designated by either the full or the abbreviated form. Use of  
“Limited”  
“Incor-  
porated”  
“Corporation”

(2) Subject to the provisions of this Act and the regulations, a corporation may have in its articles of incorporation a special provision permitting it to set out its name in any language and the corporation may be legally designated by that name. Corporate  
name

Letters and  
numerals  
permitted

(3) Only letters from the alphabet of the English language or Arabic numerals or a combination thereof, together with such punctuation marks and other marks as are permitted by regulation, may form part of the name of a corporation.

Exception

(4) Subsection 3 does not apply to a name under subsection 2.

s. 10,  
re-enacted

7. Section 10 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 138, section 4, is repealed and the following substituted therefor:

Unauthorized  
use of  
"Limited",  
etc.

10.—(1) No person, partnership or association, while not incorporated, shall trade or carry on a business or undertaking under a name in which "Limited", "Incorporated" or "Corporation" or any abbreviation thereof, or any version thereof in another language, is used.

Idem

(2) Where a corporation carries on business or identifies itself to the public in a name or style other than as provided in the articles, that name or style shall not include the word "Limited", "Incorporated" or "Corporation", any abbreviation thereof or any version thereof in another language.

s. 11,  
re-enacted

8. Section 11 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 138, section 5, is repealed and the following substituted therefor:

Change of  
name if  
objectionable

11.—(1) If a corporation, through inadvertence or otherwise, has acquired a name contrary to section 7, the Minister may, after he has given the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Failure to  
perform  
undertaking

(2) Where an undertaking to dissolve or change its name is given by a corporation to which this Act applies and the undertaking is not carried out within the time specified, the Minister may, after giving the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Idem

(3) Where an undertaking to dissolve or change its name is given by a body corporate to which this Act does not apply, or by a trust, association, partnership, sole proprietorship or individual, and the undertaking is not carried out



within the time specified, the Minister may, after giving the corporation that acquired the name by virtue of such undertaking an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate, the articles are amended accordingly.

(4) Where the name of a corporation has been changed <sup>Change of name</sup> under proceedings taken under this section, the corporation may, subject to section 7, thereafter deliver to the Minister articles of amendment under the provisions of this Act changing its name to the name specified in the articles.

9. Section 12 of the said Act is repealed.

s. 12,  
repealed

10. Subsection 2, and subsection 3 as enacted by the Statutes of Ontario, 1971, chapter 26, section 4, of section 25 of the said Act are repealed.

s. 25 (2, 3),  
repealed

11. Section 31 of the said Act is repealed and the following substituted therefor:

s. 31,  
re-enacted

31.—(1) For the purpose of bringing a resolution passed <sup>Filing of statement</sup> by the directors under subsection 2 of section 30 into effect, the corporation shall deliver to the Minister, within six months after the resolution has been passed, a statement in duplicate executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out,

- (a) the name of the corporation;
- (b) a certified copy of the resolution;
- (c) that the resolution was duly passed by the directors;
- (d) the date of the passing of the resolution; and
- (e) that the conditions, if any, contained in the articles or in any prior resolution precedent to the creation and issue of the shares of the series have been complied with.

(2) Upon receiving duplicate original statements executed in accordance with this Act and the prescribed fee, the Minister shall, <sup>Issuance of certificate</sup>

- (a) endorse on each of the duplicate original statements a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the corporation or its agents the other duplicate original.

Effect of  
certificate

(3) Upon the date set out in the certificate endorsed in accordance with subsection 2, the resolution referred to in subsection 2 of section 30 becomes effective and constitutes an amendment to the articles.

s. 190,  
re-enacted

**12.** Section 190 of the said Act is repealed and the following substituted therefor:

Articles of  
amendment

190.—(1) For the purpose of bringing an amendment to the articles into effect, the corporation shall deliver to the Minister, within six months after the resolution has become effective, articles of amendment in duplicate, executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out,

- (a) the name of the corporation;
- (b) a certified copy of the resolution;
- (c) that the amendment has been duly authorized as required by subsections 2, 3 and 4 of section 189; and
- (d) the date of the confirmation of the resolution by the shareholders.

Idem

(2) The articles of amendment shall not change the name of the corporation or decrease the authorized or issued capital of the corporation if,

- (a) it is insolvent; or
- (b) the amendment would render the corporation insolvent.

Evidence  
Minister may  
require

(3) The Minister may, if he thinks fit, require evidence that establishes to his satisfaction,

- (a) that the corporation is not insolvent;

- (b) that a decrease in authorized or issued capital will not render the corporation insolvent; and
- (c) that no creditors object to the amendment.

**13.** Section 191 of the said Act is repealed and the following <sup>s. 191, re-enacted</sup> substituted therefor:

191.—(1) Upon receiving duplicate original articles of <sup>Certificate of</sup> amendment, all other required documents executed in accordance with this Act and the prescribed fee, the Minister shall,

- (a) endorse on each of the duplicate original articles a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one duplicate original in his office; and
- (c) return to the corporation or its agent the other duplicate original.

(2) The certificate endorsed in accordance with subsection 1 constitutes the certificate of amendment to the articles of incorporation and, upon the date set out in the certificate, the articles of incorporation are amended accordingly. <sup>Effect of certificate</sup>

**14.** Section 192 of the said Act is repealed and the following <sup>s. 192, re-enacted</sup> substituted therefor:

192.—(1) A corporation may at any time restate its articles <sup>Restatement of articles</sup> of incorporation as theretofore amended.

(2) For the purpose of bringing the restated articles into effect, the corporation shall deliver to the Minister the restated articles in duplicate, executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out, <sup>Filing of restatement</sup>

- (a) all the provisions that are then set out in the original articles of incorporation as theretofore amended; and
- (b) a statement that the restated articles correctly set out without change the corresponding provisions of the original articles as theretofore amended.

(3) Upon receiving duplicate original restated articles of <sup>Restatement of</sup> incorporation restated in accordance with this Act and the prescribed fee, the Minister shall, <sup>certificate</sup>



- (a) endorse on each of the duplicate original restated articles a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the corporation or its agent the other duplicate original.

Effect of  
certificate

(4) The certificate endorsed in accordance with subsection 3 constitutes the restated certificate of incorporation of the corporation and the restated articles of incorporation become effective upon the date set out therein and supersede the original articles of incorporation and all amendments thereto.

s. 195,  
re-enacted

**15.** Section 195 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 26, section 33, is repealed and the following substituted therefor:

Scheme

195.—(1) For the purpose of bringing a scheme into effect, the corporation shall, within six months of the approval of the scheme by the court, deliver to the Minister a statement in duplicate executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out,

- (a) the name of the corporation;
- (b) a certified copy of the scheme;
- (c) a certified copy of the order of the court; and
- (d) that the terms and conditions, if any, to which the scheme is made subject by the order have been complied with.

Certificate

(2) Upon receiving the duplicate original statements, all other required documents executed in accordance with this Act, and the prescribed fee, the Minister shall,

- (a) endorse on each of the duplicate original statements a certificate setting out the day, month and year of the endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the corporation or its agent the other duplicate original.

(3) Upon the date set out in the certificate endorsed in accordance with subsection 2, the scheme becomes effective and constitutes an amendment to the articles. Effect of certificate

**16.** Section 197 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 26, section 35, is repealed and the following substituted therefor: s. 197, re-enacted

197.—(1) For the purpose of bringing an amalgamation into effect, the amalgamating corporations shall, within six months after the amalgamation agreement has become effective, deliver to the Minister articles of amalgamation in duplicate executed under the seal of each of the amalgamating corporations and signed by two officers, or by one director and one officer, of each of the amalgamating corporations setting out, Filing of articles of amalgamation

- (a) the names of each of the amalgamating corporations;
- (b) a certified copy of the amalgamation agreement;
- (c) that the agreement has been duly approved as required by section 196; and
- (d) the dates on which the amalgamation agreement was approved by the shareholders of each of the amalgamating corporations.

(2) Notwithstanding subsection 1 of section 196, no corporation that is insolvent shall amalgamate and the Minister, before proceeding as provided in subsection 3, may require evidence that establishes to his satisfaction that a corporation delivering articles under subsection 1 is not insolvent. Corporation to be solvent

(3) Upon receiving duplicate original articles of amalgamation, all other required documents executed in accordance with this Act and the prescribed fee, the Minister shall, Certificate of amalgamation

- (a) endorse on each of the duplicate original articles of amalgamation a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the amalgamated corporation or its agent the other duplicate original.

Idem

(4) The certificate endorsed in accordance with subsection 3 constitutes the certificate of amalgamation of the amalgamating corporations and upon the date set out therein,

- (a) the amalgamation becomes effective and the amalgamating corporations are amalgamated and continue as one corporation under the terms and conditions set out in the amalgamation agreement;
- (b) the amalgamated corporation possesses all the property, rights, privileges and franchises and is subject to all liabilities, contracts, disabilities and debts of each of the amalgamating corporations;
- (c) the issued capital of the amalgamated corporation is, subject to the decrease provided for in subsection 3 of section 196, equal to the aggregate of the issued capital of each of the amalgamating corporations immediately before the amalgamation becomes effective; and
- (d) the articles of incorporation of each of the amalgamating corporations are amended to the extent necessary to give effect to the terms and conditions of the amalgamation agreement.

s. 198 (2),  
amended

**17.—**(1) Subsection 2 of section 198 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 138, section 55, is amended by striking out “and verified by affidavit of one of the officers or directors signing the articles of continuation” in the forty-sixth, forty-seventh and forty-eighth lines.

s. 198 (4-6),  
re-enacted

(2) Subsections 4, 5 and 6 of the said section 198, are repealed and the following substituted therefor:

Certificate

(4) Upon receiving duplicate original articles of continuation, all other required documents executed in accordance with this Act and the prescribed fee, the Minister may,

- (a) endorse on each of the duplicate original articles of continuation a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the corporation or its agent the other duplicate original.

(5) The certificate endorsed in accordance with subsection 4 constitutes the certificate of continuation of the body corporate and the Minister may endorse the certificate upon such terms and subject to such limitations, conditions and provisions as to the Minister appear proper. Conditions

(6) Upon the date set out in a certificate of continuation endorsed in accordance with subsections 3 and 5, this Act applies to the body corporate to the same extent as if it had been incorporated under this Act. Effective date

**18.—**(1) Subsection 1 of section 248 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 138, section 57, is repealed and the following substituted therefor: s. 248 (1), re-enacted

(1) For the purpose of bringing the dissolution authorized under clause *a* or *b* of section 247 into effect, the corporation shall deliver to the Minister articles of dissolution in duplicate, executed under seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out, Articles of dissolution where corporation active

- (a) the name of the corporation;
- (b) that its dissolution has been duly authorized under clause *a* or *b* of section 247;
- (c) that it has no debts, obligations or liabilities or its debts, obligations or liabilities have been duly provided for in accordance with subsection 3 or its creditors or other persons having interests in its debts, obligations or liabilities consent to its dissolution;
- (d) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute among its shareholders or that it has distributed its remaining property rateably among its shareholders according to their rights and interests in the corporation or in accordance with subsection 4 where applicable;
- (e) that there are no proceedings pending in any court against it; and
- (f) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its principal place of business in Ontario or, if it does not have a place of business in Ontario, where it has its head office.

s. 248 (2),  
amended

(2) Subsection 2 of the said section 248, as amended by the Statutes of Ontario, 1971, chapter 26, section 39, is further amended by striking out "and verified by affidavit of one of them" in the fourth and fifth lines.

ss. 249, 250,  
re-enacted

**19.** Sections 249 and 250 of the said Act are repealed and the following substituted therefor:

Certificate  
of  
dissolution

249.—(1) Upon receiving duplicate original articles of dissolution, all other required documents executed in accordance with this Act, the prescribed fee and evidence that all taxes payable by the corporation to the Treasurer of Ontario have been paid, the Minister shall,

- (a) endorse on each of the duplicate original articles of dissolution, a certificate setting forth the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office;
- (c) return to the persons who executed the articles of dissolution, or their agents, the other duplicate original.

Effect of  
certificate

(2) The certificate endorsed in accordance with subsection 1 constitutes the certificate of dissolution of the corporation and the dissolution becomes effective and the corporation is dissolved upon the date set out therein.

Cancellation  
of  
certificate,  
etc., by  
Minister

250. Where sufficient cause is shown to the Minister, he may, after he has given the corporation an opportunity to be heard, by order, upon such terms as he thinks fit, cancel a certificate of incorporation or any certificate issued or endorsed by him under this Act, and,

- (a) in the case of the cancellation of a certificate of incorporation, the corporation is dissolved on the date fixed in the order; and
- (b) in the case of the cancellation of any other certificate, the matter that became effective upon the issuance or endorsement of the certificate ceases to be in effect from the date fixed in the order.

s. 264,  
re-enacted

**20.** Section 264 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 26, section 44, is repealed and the following substituted therefor:

Publication  
of notices in  
*The Ontario  
Gazette*

264. The Minister shall cause notice to be published forthwith in *The Ontario Gazette*,



- (a) of the endorsement of every certificate under section 5, 31, 191, 195, 197, 198 or 249;
- (b) of the issue of every certificate under section 11;
- (c) of the filing of a certified copy of an order under subsection 6 of section 215 or subsection 2 of section 228;
- (d) of the filing of a notice by a liquidator under subsection 2 of section 215; and
- (e) of the issue of every order under section 161, 250 or 251.

**21.** Section 266 of the said Act is amended by adding thereto the following subsection: s. 266,  
amended

(3) For the purposes of subsections 1 and 2, any signature of the Minister or any signature of an officer of the Ministry designated by the regulations may be printed or otherwise mechanically reproduced. Reproduction  
of  
signature

**22.** The said Act is amended by adding thereto the following sections: ss. 266a, 266b,  
enacted

266a.—(1) A certificate or authorization referred to in sections 5, 31, 191, 195, 197, 198, 199, and 249 or an order referred to in subsection 4 of section 251 shall be dated as of the day the Minister receives the duplicate originals of any articles, statement or application together with all other required documents executed in accordance with this Act and the prescribed fee, or as of any later date acceptable to the Minister and specified by the person who signed the articles, statement or application. Date of  
certificate

(2) Articles filed by the Minister under this Act shall have effect from the date of the certificate endorsed thereon notwithstanding that any action required to be taken by the Minister under this Act with respect to the endorsement of the certificate and filing by him is taken at a later date. Date of  
articles

266b.—(1) If a certificate is endorsed by the Minister on articles or any other document that contains an error, the directors or shareholders of the corporation shall, upon the request of the Minister, pass the resolutions and send to him the documents required to comply with this Act, and take such other steps as the Minister may reasonably require, and the Minister may order the surrender of the certificate and endorse a corrected certificate on the articles or any other document after giving the corporation an opportunity to be heard. Corrected  
certificate

- Date (2) A certificate corrected under subsection 1 shall bear the date of the certificate it replaces and shall be deemed to be in effect on that date.
- Notice (3) If a corrected certificate issued under subsection 1 materially amends the terms of the original certificate, the Minister shall forthwith give notice of the correction in *The Ontario Gazette*.
- s. 267, re-enacted **23.** Section 267 of the said Act is repealed and the following substituted therefor:
- Notice of refusal to file 267.—(1) Where the Minister refuses to endorse a certificate on articles or any other document required by this Act to be endorsed with a certificate by him before it becomes effective, he shall give written notice to the person who delivered the articles or other document of his refusal, specifying the reasons therefor.
- Failure to act deemed refusal (2) Where, within six months after the delivery to the Minister of articles or other documents referred to in subsection 1, the Minister has not endorsed a certificate on such articles or other document, he shall be deemed for the purposes of section 268 to have refused to endorse it.
- s. 268 (1), re-enacted **24.**—(1) Subsection 1 of section 268 of the said Act is repealed and the following substituted therefor:
- Appeal from Minister to Divisional Court (1) Any person who feels aggrieved by a decision of the Minister to,
- (a) refuse to endorse a certificate on articles or any other document;
  - (b) issue or refuse to issue a certificate of amendment under subsection 1, 2 or 3 of section 11;
  - (c) issue an order under section 250;
  - (d) order the surrender of a certificate under section 266b,
- may appeal the decision to the Supreme Court.
- s. 268 (5), amended (2) Subsection 5 of the said section 268 is amended by striking out "of Appeal" in the first and second lines.
- s. 268 (6), amended (3) Subsection 6 of the said section 268 is amended by striking out "of Appeal" in the first line.
- s. 271 amended **25.** Section 271 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 49, section 17, is further amended by adding thereto the following clauses:

- (g) prohibiting the use of any words or expressions in a corporate name;
- (h) prescribing requirements for the purposes of clause *c* of subsection 1 of section 7;
- (i) prescribing conditions for the purposes of subsection 2 of section 7;
- (j) respecting the content of a special language provision referred to in subsection 2 of section 8 permitting punctuation marks and other marks referred to in subsection 3 of section 8;
- (k) defining any word or expression used in clause *b* of subsection 1 of section 7;
- (l) prescribing the matters that the Minister shall take into consideration in determining whether a name is contrary to section 7.

- 26.** This Act comes into force on the 1st day of September, 1979. Commence-  
ment
- 27.** The short title of this Act is *The Business Corporations Amendment Act, 1979*. Short title















---

An Act to amend  
The Business Corporations Act

---

*1st Reading*

March 29th, 1979

*2nd Reading*

May 17th, 1979

*3rd Reading*

May 24th, 1979

---

THE HON. FRANK DREA  
Minister of Consumer and  
Commercial Relations

---

3RD SESSION, 31ST LEGISLATURE, <sup>1</sup>ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend The Insurance Act**

MR. NIXON



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTE

The purpose of the Bill is to prohibit the charging of any increased amount for automobile insurance where the insured has been convicted of an offence under *The Highway Traffic Act*. The Superintendent of Insurance is empowered to adjust rates that contain such a surcharge. A surcharge is permitted where the insured has been convicted of an offence under the *Criminal Code* (Canada) or has been involved in an automobile accident during the previous three year period.

## An Act to amend The Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Insurance Act*, being chapter 224 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 367a,  
enacted

367a.—(1) No rating bureau and no insurer authorized to transact the business of insurance in Ontario shall fix or make a rate or schedule of rates or charge a rate for automobile insurance that includes any increased amount for a conviction of an offence under *The Highway Traffic Act* suffered by the insured. Surcharge  
prohibited  
  
R.S.O. 1970,  
c. 202

(2) Where a rating bureau or insurer fixes or makes a rate or schedule of rates or charges a rate for automobile insurance that includes an increased amount based upon the driving record of the insured, such increased amount shall only be payable where the insured, Where  
surcharge  
permitted

(a) has been convicted of an offence under the *Criminal Code* (Canada); or R.S.O. 1970,  
c. C-35

(b) has sustained one or more automobile accidents,

during the three year period prior to the day on which the amount of the insured's automobile insurance becomes due and payable.

(3) It is the duty of the Superintendent, after due notice and a hearing before him, to order an adjustment of the rates for automobile insurance whenever it is found by him that any such rate contravenes subsection 1 or 2. Adjustment  
by  
Superintendent

2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment

3. The short title of this Act is *The Insurance Amendment Act, 1979*. Short title

An Act to amend  
The Insurance Act

*1st Reading*

April 3rd, 1979

*2nd Reading*

*3rd Reading*

MR. NIXON

*(Private Member's Bill)*

H120  
XB  
-B56

3

Government  
Publication

**BILL 36**

**Private Member's Bill**

3RD SESSION, 31ST LEGISLATURE, <sup>1</sup>ONTARIO  
28 ELIZABETH II, 1979

**An Act to declare the Application of certain Parts of The  
Employment Standards Act, 1974**

MR. MACKENZIE



#### EXPLANATORY NOTE

The purpose of the Bill is to extend the application of Parts IV, V, VI, VII and VIII of *The Employment Standards Act, 1974* to domestic servants. These Parts are concerned with employment standards relating to hours of work, minimum wages, overtime pay, public holidays and vacations with pay. Clause *f* of section 3 of Ontario Regulation 803/75 currently prevents these Parts of the Act from applying to domestic servants.

BILL 36

1979

## An Act to declare the Application of certain Parts of The Employment Standards Act, 1974

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Notwithstanding clause *f* of section 3 of Ontario Regulation 803/75, it is hereby declared that Parts IV, V, VI, VII and VIII of *The Employment Standards Act, 1974* apply to a person who is employed as a domestic servant. Declaration re O. Reg. 803/75, s. 3 (f) 1974, c. 112

**2.** This Act comes into force on the day it receives Royal Assent. Commencement

**3.** The short title of this Act is *The Employment Standards Declaratory Act, 1979*. Short title

An Act to declare the Application of  
certain Parts of The Employment  
Standards Act, 1974

*1st Reading*

April 3rd, 1979

*2nd Reading*

*3rd Reading*

MR. MACKENZIE

*(Private Member's Bill)*

CADON  
XB  
- B50

F BILL 37  
11

Government  
Publications

Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, 1/5 ONTARIO  
28 ELIZABETH II, 1979

Registered

An Act to amend The Labour Relations Act

MR. STONG





#### EXPLANATORY NOTE

This Bill defines hospital pharmacists and establishes a bargaining unit of hospital pharmacists as an appropriate unit for collective bargaining.

BILL 37

1979

## An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 1 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1975, chapter 76, section 1 and 1977, chapter 31, section 1, is further amended by adding thereto the following clause:
 

(ha) "hospital pharmacist" means a person who is licensed as a pharmacist under *The Health Disciplines Act*, 1974 and employed in a hospital as defined in *The Hospital Labour Disputes Arbitration Act* in a professional capacity.
2. Section 6 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 76, section 3, is further amended by adding thereto the following subsection:
 

(5) A bargaining unit consisting solely of hospital pharmacists shall be deemed by the Board to be a unit of employees appropriate for collective bargaining, but the Board may include hospital pharmacists in a bargaining unit with other employees if the Board is satisfied that a majority of such hospital pharmacists wish to be included in such bargaining unit.
3. This Act comes into force on the day it receives Royal Assent.
4. The short title of this Act is *The Labour Relations Amendment Act*, 1979.

s. 1 (1),  
amended

1974, c. 47

R.S.O. 1970,  
c. 208s. 6,  
amendedHospital  
pharmacistsCommence-  
ment

Short title

An Act to amend  
The Labour Relations Act

*1st Reading*

April 3rd, 1979

*2nd Reading*

*3rd Reading*

MR. STONG

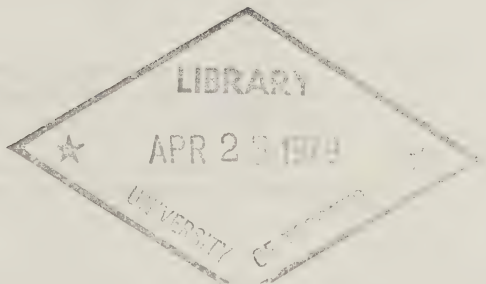
*(Private Member's Bill)*

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

Legislative Assembly

**An Act to amend  
The Compensation for Victims of Crime Act, 1971**

MR. KENNEDY



#### EXPLANATORY NOTES

The purpose of the Bill is to extend the eligibility for compensation under *The Compensation for Victims of Crime Act, 1971* to any person who has been convicted of an offence and sentenced to a term of imprisonment and whose conviction is subsequently quashed.

The circumstances under which such a person would be eligible for compensation are set out in the new subsection 2 of section 5. The person must have been convicted and sentenced to prison after having pleaded not guilty to the offence with which he was charged. Under the new subsection 2 of section 6, an application for compensation can be made when the decision quashing the conviction becomes final.

As set out in the new subsection 3 of section 7, the victim may receive compensation for expenses actually incurred and pecuniary losses resulting from the imprisonment and for legal expenses incurred in appealing the conviction.

In determining compensation, the Board, as set out in subsection 2 of section 17, must consider all of the circumstances surrounding the charge, conviction and quashing of the conviction including the behaviour of the victim.

Under the new subsection 6 of section 19, the Board may award a lump sum payment of up to \$15,000 to the victim. This is consistent with awards under subsection 1 of section 19.

Other amendments contained in the Bill are complementary to the above-noted amendments.

BILL 38

1979

**An Act to amend  
The Compensation for Victims of Crime Act, 1971**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *g* of subsection 1 of section 1 of *The Compensation for Victims of Crime Act, 1971*, being chapter 51, is repealed and the following substituted therefor: s. 1 (1) (g),  
re-enacted

(g) “victim” means a person injured or killed in the circumstances set out in subsection 1 of section 5 or a person who is convicted of an offence and sentenced to a term of imprisonment and whose conviction is subsequently quashed in the circumstances set out in subsection 2 of section 5.

2. Section 5 of the said Act is amended by adding thereto the following subsection: s. 5,  
amended

(2) Where a person is charged in Ontario with an offence under a Statute of Canada or Ontario and, having pleaded not guilty, is convicted and sentenced to a term of imprisonment and the conviction is subsequently quashed, the Board, on application therefor, may make an order that it, in its discretion exercised in accordance with this Act, considers proper for the payment of compensation to the victim. Compensation to  
imprisoned  
persons

- 3.—(1) Section 6 of the said Act is amended by inserting after “compensation” in the first line “under subsection 1 of section 5”. s. 6,  
amended

- (2) The said section 6 is further amended by adding thereto the following subsections: s. 6,  
amended

(2) An application for compensation under subsection 2 of section 5 shall not be made until the date on which the decision or order quashing the conviction becomes final and shall be made within one year of that date. Idem

Final  
decision

(3) For the purposes of subsection 2, a decision or order quashing a conviction becomes final when the guilt or innocence of the victim has been finally determined and no further right of appeal or right to apply for leave to appeal remains.

s. 7 (1),  
amended

4.—(1) Subsection 1 of section 7 of the said Act is amended by adding at the commencement thereof "In an application under subsection 1 of section 5".

s. 7,  
amended

(2) The said section 7 is amended by adding thereto the following subsection:

Idem

(3) In an application under subsection 2 of section 5, compensation may be awarded for,

(a) expenses actually and reasonably incurred as a result of the victim's imprisonment;

(b) pecuniary loss incurred by the victim as a result of the victim's imprisonment during the period of imprisonment; and

(c) legal expenses actually and reasonably incurred in appealing the conviction.

s. 17,  
re-enacted

5. Section 17 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 34, section 1, is repealed and the following substituted therefor:

Considera-  
tions of  
Board

17.—(1) In determining whether to make an order for compensation under subsection 1 of section 5 and the amount thereof, the Board shall have regard to all relevant circumstances, including any behaviour of the victim that may have directly or indirectly contributed to his injury or death.

Idem

(2) In determining whether to make an order for compensation under subsection 2 of section 5 and the amount thereof, the Board shall have regard to all relevant circumstances surrounding the charge, conviction and quashing of the conviction including the behaviour of the victim.

Idem

(3) The Board may, in its discretion, refuse to make an order for compensation under subsection 1 of section 5 where it is satisfied that the applicant has refused reasonable co-operation with, or failed to report promptly the offence to, a law enforcement agency.

Idem

(4) In assessing pecuniary loss, the Board shall take into consideration any benefit, compensation or indemnity payable to the applicant from any source.

6. Section 19 of the said Act is amended by adding thereto the following subsection: s. 19,  
amended
- (6) The amount awarded by the Board to be paid in respect of an application under subsection 2 of section 5 shall not exceed \$15,000 and the amount awarded shall be paid in a lump sum. Maximum  
awards for  
victim in  
application  
under  
s. 5 (2)
7. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
8. The short title of this Act is *The Compensation for Victims of Crime Amendment Act, 1979*. Short title







---

---

**BILL 38**

---

An Act to amend  
The Compensation for Victims  
of Crime Act, 1971

---

*1st Reading*

April 5th, 1979

*2nd Reading*

*3rd Reading*

---

MR. KENNEDY

---

*(Private Member's Bill)*

---

AJ 40  
XB  
-B56

3  
BILL 39

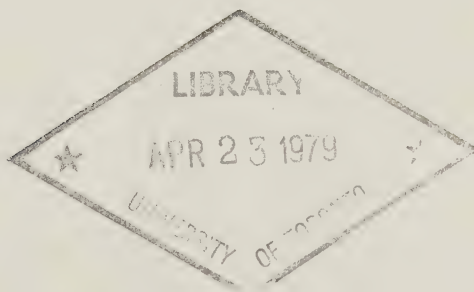
Government  
Publications

Private Member's Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

## An Act to amend The Workmen's Compensation Act

MR. HAGGERTY



#### EXPLANATORY NOTE

The purpose of the Bill is to require the Workmen's Compensation Board to establish at least one sheltered workshop for handicapped persons in Ontario. The Board is also authorized to provide assistance to persons or associations who wish to establish sheltered workshops.

BILL 39

1979

## An Act to amend The Workmen's Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 53 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is further amended by adding thereto the following subsection:
 

(2) The Board shall establish and maintain in Ontario at least one sheltered workshop for the purpose of providing employment for injured employees who are not capable of working a full working day, and the Board may assist any person or association in establishing sheltered workshops for the same purpose.
2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is *The Workmen's Compensation Amendment Act, 1979*.

s. 53,  
amendedEstablish-  
ment of  
sheltered  
workshopsCommence-  
ment

Short title

**BILL 39**

An Act to amend  
The Workmen's Compensation Act

*1st Reading*

April 5th, 1979

*2nd Reading*

*3rd Reading*

MR. HAGGERTY

*(Private Member's Bill)*

1-28N  
Y B  
-B 56

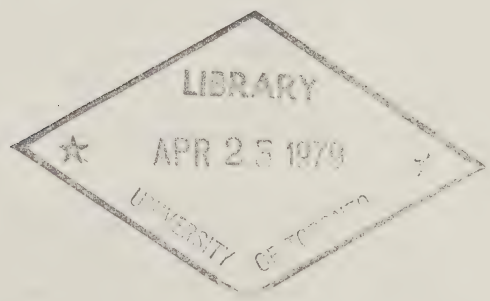
3  
17 BILL 40

Government  
Publications  
Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979 *Legislative Assembly*

**An Act for granting to Her Majesty certain additional sums  
of money for the Public Service for the fiscal year ending  
the 31st day of March, 1979**

THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics







BILL 40

1979

**An Act for granting to Her Majesty certain additional sums of money for the Public Service for the fiscal year ending the 31st day of March, 1979**

MOST GRACIOUS SOVEREIGN:

**W**HEREAS it appears by messages from the Honourable Preamble  
 Pauline M. McGibbon, Lieutenant Governor of the Province of Ontario, and the estimates accompanying the same, that the sums mentioned in the Schedule to this Act are required to defray certain charges and expenses of the public service of this Province, not otherwise provided for, for the fiscal year ending the 31st day of March, 1979; may it therefore please Your Majesty that it be enacted and it is hereby enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, as follows:

**1.**—(1) In addition to the sum of \$12,964,992,900 granted by *The Supply Act, 1978*, there may be paid out of the Consolidated Revenue Fund a sum not exceeding in the whole \$96,165,000 to be applied towards defraying the several charges and expenses of the public service, not otherwise provided for, from the 1st day of April, 1978, to the 31st day of March, 1979, as set forth in the Schedule to this Act, and, subject to subsection 2, such sum shall be paid and applied only in accordance with the votes and items of the supplementary estimates upon which the Schedule is based. \$96,165,000  
granted for  
fiscal year  
1978-79  
1978, c. 106

(2) Where, in the fiscal year ending the 31st day of March, Exception  
 1979, powers and duties are assigned and transferred from one Minister of the Crown to another Minister of the Crown, the appropriate sums in the votes and items of the estimates upon which the Schedule is based that are approved to defray the charges and expenses of the public service in the exercise and performance of such powers and duties, may be assigned and transferred from time to time as required by certificate of the Management Board of Cabinet to the

ministry administered by the minister to whom the powers and duties are so assigned and transferred.

Accounting  
for  
expenditure

**2.** The due application of all moneys expended under this Act shall be accounted for to Her Majesty.

Commence-  
ment

**3.** This Act comes into force on the day it receives Royal Assent.

Short title

**4.** The short title of this Act is *The Supply Act, 1979*.

#### SCHEDULE

Community and Social Services . . . . .	\$ 14,600,000
Correctional Services . . . . .	2,800,000
Health . . . . .	66,000,000
Natural Resources . . . . .	4,975,000
Northern Affairs . . . . .	3,100,000
Treasury and Economics . . . . .	4,690,000
Total	<u>\$ 96,165,000</u>







An Act for granting to Her Majesty certain additional sums of money for the Public Service for the fiscal year ending the 31st day of March, 1979

*1st Reading*

April 5th, 1979

*2nd Reading*

April 5th, 1979

*3rd Reading*

April 5th, 1979

THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

*(Government Bill)*

724N  
XB  
- B56

3  
F  
m  
**BILL 41**

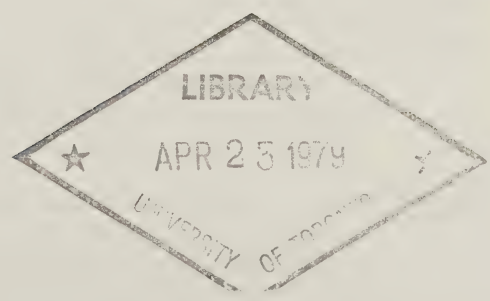
Government  
Publication  
Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

Legislative Assembly

**An Act to amend  
The Ministry of Industry and Tourism Act, 1972**

THE HON. L. GROSSMAN  
Minister of Industry and Tourism





#### EXPLANATORY NOTE

This Bill adds two new sections to the Act, section 4*a* and section 5*a*.

The new section 4*a* enables the Minister to employ residents in countries other than Canada and in provinces other than Ontario who would, as employees, not be Crown employees for the purposes of any Act or regulation of the Legislature.

The new section 5*a* sets out the authority of the Minister to enter into contracts and agreements for and in the name of the Crown and authorizes him to delegate any of his powers and duties to the Deputy Minister or to officers of the Ministry.

The reference to *The Executive Council Act* in subsection 3 of the new section 5*a* is in respect of section 5 of that Act which reads as follows:

5. *No deed or contract in respect of any matter under the control or direction of a minister is binding on Her Majesty or shall be deemed to be the act of such minister unless it is signed by him or is approved by the Lieutenant Governor in Council.*

BILL 41

1979

## An Act to amend The Ministry of Industry and Tourism Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ministry of Industry and Tourism Act, 1972*, being chapter 5, is amended by adding thereto the following sections:

4a.—(1) The Minister may, for the purpose of carrying out this Act or of exercising any of his powers or carrying out any of his duties and functions, employ any person who is resident in a country or territory other than Canada or in a province or territory of Canada other than Ontario in the service of the Crown in the country, territory or province in which he is resident.

Employment  
by  
Minister

(2) A person employed under subsection 1 shall be considered not to be a Crown employee for the purposes of any Act of the Legislature or any regulation made thereunder.

Employee  
under  
subs. 1  
not Crown  
employee

5a.—(1) The Minister, for and in the name of the Crown, may enter into any contract or agreement that he considers advisable for the purpose of carrying out this Act or of exercising any of his powers or carrying out any of his duties and functions or respecting any public works or property under the control of the Ministry and any such contract or agreement enures to the benefit of the Crown and may be enforced as if entered into with the Crown.

Authority  
to enter  
into and  
enforcement  
of contracts  
and  
agreements

(2) Where, under this or any other Act or otherwise, a power or duty, including a power or duty to enter into a contract or agreement for and in the name of the Crown, is granted to or vested in the Minister, he may in writing delegate that power or duty to the Deputy Minister of Industry and Tourism or to any officer or officers of the Ministry, subject to such

Delegation  
of authority

limitations, conditions and requirements as the Minister may set out in the delegation.

Effect of  
R.S.O. 1970,  
c. 153

(3) Notwithstanding *The Executive Council Act*, a contract or agreement made by a person empowered to do so under subsection 2 has the same effect as if made and signed by the Minister.

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** The short title of this Act is *The Ministry of Industry and Tourism Amendment Act, 1979*.







---

An Act to amend  
The Ministry of Industry and  
Tourism Act, 1972

---

*1st Reading*

April 6th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. L. GROSSMAN  
Minister of Industry and Tourism

---

*(Government Bill)*

**An Act to amend  
The Ministry of Industry and Tourism Act, 1972**

THE HON. L. GROSSMAN  
Minister of Industry and Tourism





BILL 41

1979

## An Act to amend The Ministry of Industry and Tourism Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ministry of Industry and Tourism Act, 1972*, being chapter 5, is amended by adding thereto the following sections: ss. 4a, 5a,  
enacted

4a.—(1) The Minister may, for the purpose of carrying Employment  
by  
Minister  
out this Act or of exercising any of his powers or carrying out any of his duties and functions, employ any person who is resident in a country or territory other than Canada or in a province or territory of Canada other than Ontario in the service of the Crown in the country, territory or province in which he is resident.

(2) A person employed under subsection 1 shall be considered not to be a Crown employee for the purposes of any Act of the Legislature or any regulation made thereunder. Employee  
under  
subs. 1  
not Crown  
employee

. . . . .

5a.—(1) The Minister, for and in the name of the Crown, may enter into any contract or agreement that he considers advisable for the purpose of carrying out this Act or of exercising any of his powers or carrying out any of his duties and functions or respecting any public works or property under the control of the Ministry and any such contract or agreement enures to the benefit of the Crown and may be enforced as if entered into with the Crown. Authority  
to enter  
into and  
enforcement  
of contracts  
and  
agreements

(2) Where, under this or any other Act or otherwise, a power or duty, including a power or duty to enter into a contract or agreement for and in the name of the Crown, is granted to or vested in the Minister, he may in writing delegate that power or duty to the Deputy Minister of Industry and Tourism or to any officer or officers of the Ministry, subject to such Delegation  
of authority

limitations, conditions and requirements as the Minister may set out in the delegation.

Effect of  
R.S.O. 1970,  
c. 153

(3) Notwithstanding *The Executive Council Act*, a contract or agreement made by a person empowered to do so under subsection 2 has the same effect as if made and signed by the Minister.

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** The short title of this Act is *The Ministry of Industry and Tourism Amendment Act, 1979*.







---

## BILL 41

---

An Act to amend  
The Ministry of Industry and  
Tourism Act, 1972

---

*1st Reading*

April 6th, 1979

*2nd Reading*

April 24th, 1979

*3rd Reading*

April 24th, 1979

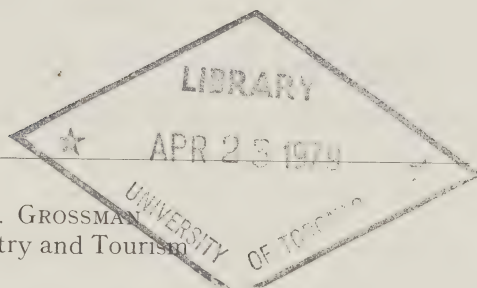
---

THE HON. I. GROSSMAN  
Minister of Industry and Tourism

---

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

An Act to repeal  
The Sheridan Park Corporation Act



THE HON. L. GROSSMAN  
Minister of Industry and Tourism



#### EXPLANATORY NOTE

The Act repealed established the Sheridan Park Corporation to acquire, service and sell land to establish a centralized research complex. The remaining land that is unsold has been acquired by Ontario Development Corporation which has taken over the remaining functions of the Sheridan Park Corporation. The Corporation has no assets or liabilities.

BILL 42

1979

**An Act to repeal  
The Sheridan Park Corporation Act**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Sheridan Park Corporation Act*, being chapter 433 of the Revised Statutes of Ontario, 1970, is repealed. Repeal
2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is *The Sheridan Park Corporation Repeal Act, 1979*. Short title

BILL 42

An Act to repeal  
The Sheridan Park Corporation Act

*1st Reading*

April 6th, 1979

*2nd Reading*

*3rd Reading*

THE HON. L. GROSSMAN  
Minister of Industry and Tourism

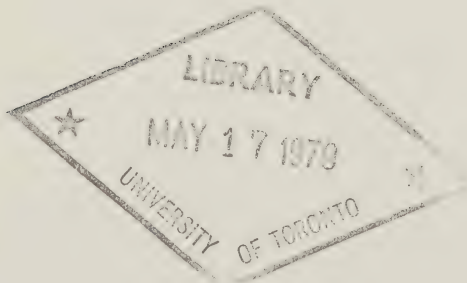
*(Government Bill)*

**BILL 42**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to repeal  
The Sheridan Park Corporation Act**

THE HON. L. GROSSMAN  
Minister of Industry and Tourism



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL 42

1979

**An Act to repeal  
The Sheridan Park Corporation Act**

**H**ER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of the Province of Ontario, enacts as  
follows:

1. *The Sheridan Park Corporation Act*, being chapter 433 of the Revised Statutes of Ontario, 1970, is repealed. <sup>Repeal</sup>
2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-</sup>  
<sup>ment</sup>
3. The short title of this Act is *The Sheridan Park Corporation* <sup>Short title</sup>  
*Repeal Act, 1979*.

---

An Act to repeal  
The Sheridan Park Corporation Act

---

*1st Reading*

April 6th, 1979

*2nd Reading*

May 1st, 1979

*3rd Reading*

May 1st, 1979

---

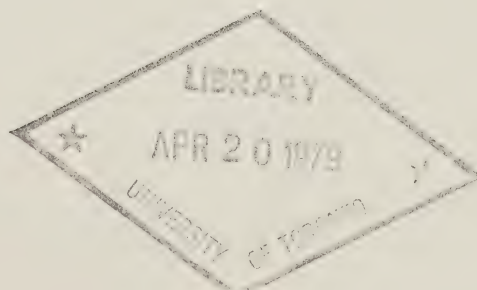
THE HON. L. GROSSMAN  
Minister of Industry and Tourism

---

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to repeal The Fires Extinguishment Act**

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTE

The Bill repeals *The Fires Extinguishment Act* which was first enacted in 1890. The Act enabled county councils to authorize fire guardians, fence-viewers, overseers of highways or pathmasters appointed by township councils to order male inhabitants of the township to assist in the fighting of forest fires in the township. Paragraph 7 of section 376 of *The Municipal Act* authorizes the reeve or deputy reeve, or in their absence, a member of a township council to call out the male inhabitants of the township to fight forest fires. Under section 7 of *The Forest Fires Prevention Act*, officers appointed by the Minister of Natural Resources may summon any male person of eighteen to sixty years of age to assist in fighting forest fires in fire regions. *The Fires Extinguishment Act* is therefore redundant.

BILL 43

1979

**An Act to repeal  
The Fires Extinguishment Act**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** *The Fires Extinguishment Act*, being chapter 173 of the Repeal Revised Statutes of Ontario, 1970, is repealed.

**2.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**3.** The short title of this Act is *The Fires Extinguishment Repeal Act, 1979*. Short title

An Act to repeal  
The Fires Extinguishment Act

---

*1st Reading*

April 10th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

---

*(Government Bill)*

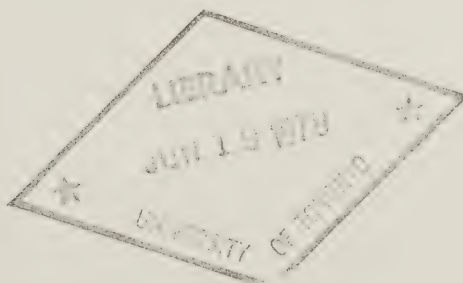
---

*Bill 43*  
**BILL 43**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to repeal The Fires Extinguishment Act**

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL 43

1979

**An Act to repeal  
The Fires Extinguishment Act**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

**1.** *The Fires Extinguishment Act*, being chapter 173 of the Revised Statutes of Ontario, 1970, is repealed. <sup>Repeal</sup>

**2.** This Act comes into force on the day it receives Royal Assent. <sup>Commence-  
ment</sup>

**3.** The short title of this Act is *The Fires Extinguishment Repeal Act, 1979*. <sup>Short title</sup>

---

---

# BILL 43

An Act to repeal  
The Fires Extinguishment Act

---

*1st Reading*

April 10th, 1979

*2nd Reading*

May 24th, 1979

*3rd Reading*

May 24th, 1979

---

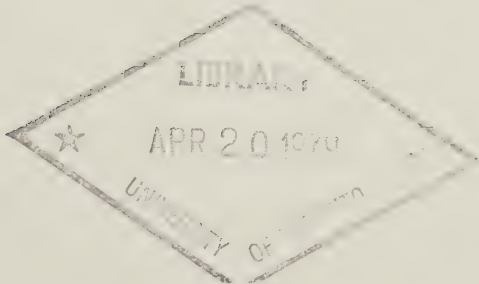
THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

---

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to repeal The Vacant Land Cultivation Act**

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs





EXPLANATORY NOTE

The Bill repeals *The Vacant Land Cultivation Act*.

BILL 44

1979

**An Act to repeal  
The Vacant Land Cultivation Act**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** *The Vacant Land Cultivation Act*, being chapter 476 of the Revised Statutes of Ontario, 1970, is repealed. Repeal

**2.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**3.** The short title of this Act is *The Vacant Land Cultivation Repeal Act, 1979*. Short title

---

## BILL 44

---

An Act to repeal  
The Vacant Land Cultivation Act

---

*1st Reading*

April 10th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

---

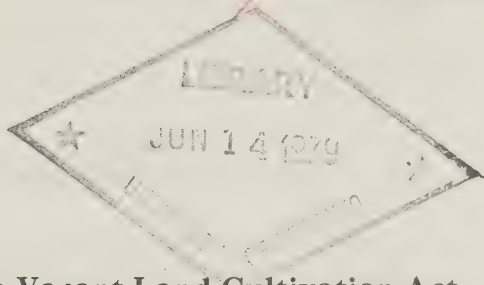
*(Government Bill)*

---

**BILL 44**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

*Legislative Assembly*



**An Act to repeal The Vacant Land Cultivation Act**

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL 44

1979

**An Act to repeal  
The Vacant Land Cultivation Act**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** *The Vacant Land Cultivation Act*, being chapter 476 of the Revised Statutes of Ontario, 1970, is repealed. Repeal

**2.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**3.** The short title of this Act is *The Vacant Land Cultivation Repeal Act, 1979*. Short title

---

# BILL 44

---

## An Act to repeal The Vacant Land Cultivation Act

---

*1st Reading*

April 10th, 1979

*2nd Reading*

May 24th, 1979

*3rd Reading*

May 24th, 1979

---

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

---

3  
F  
M  
**BILL 45**

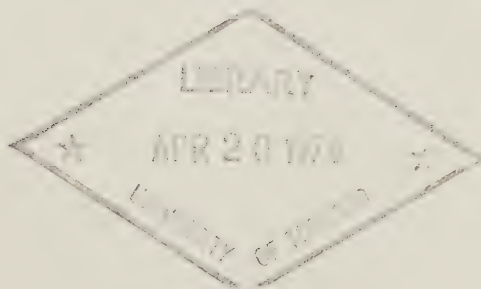
**Government Bill**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

*Legislative  
Assembly*

**An Act to repeal The Fire Guardians Act**

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs





#### EXPLANATORY NOTE

The Bill repeals *The Fire Guardians Act* which was first enacted in 1889. The Act enabled township municipalities to appoint fire guardians to regulate the setting of open air fires between April 1st and October 31st in any year. Under paragraphs 25 to 45a of section 354 of *The Municipal Act*, all local municipalities have extensive powers related to fire matters including, in paragraph 29, the power to pass by-laws regulating open air fires and, in paragraph 41, the power to authorize appointed officers to enforce such by-laws. *The Fire Guardians Act* is therefore redundant.

BILL 45

1979

**An Act to repeal  
The Fire Guardians Act**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Fire Guardians Act*, being chapter 171 of the Revised Statutes of Ontario, 1970, is repealed. <sup>Repeal</sup>

2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-  
ment</sup>

3. The short title of this Act is *The Fire Guardians Repeal Act, 1979*. <sup>Short title</sup>

**BILL 45**

---

An Act to repeal  
The Fire Guardians Act

---

*1st Reading*

April 10th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

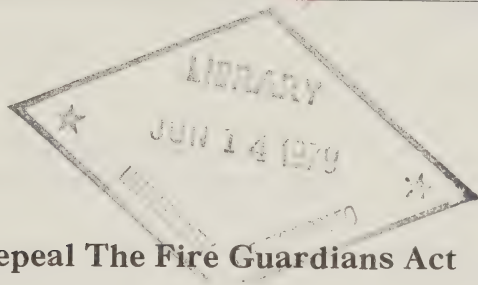
---

*(Government Bill)*

---

3  
11  
**BILL 45**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979  
*Legislative Assembly*



**An Act to repeal The Fire Guardians Act**

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs



BILL 45

1979

**An Act to repeal  
The Fire Guardians Act**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** *The Fire Guardians Act*, being chapter 171 of the <sup>Repeal</sup> Revised Statutes of Ontario, 1970, is repealed.

**2.** This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent. <sub>ment</sub>

**3.** The short title of this Act is *The Fire Guardians* <sup>Short title</sup> *Repeal Act, 1979*.

---

# BILL 45

---

An Act to repeal  
The Fire Guardians Act

---

*1st Reading*

April 10th, 1979

*2nd Reading*

May 24th, 1979

*3rd Reading*

May 24th, 1979

---

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

---

3RD SESSION, 31ST LEGISLATURE / ONTARIO  
28 ELIZABETH II, 1979

*Legislation*

## An Act to amend The Local Improvement Act

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTES

SECTION 1. At present, a municipality may issue debentures with respect to a local improvement only when the work undertaken has been completed. The proposed re-enactment of subsection 2 of section 53 will permit the council of a municipality to issue debentures either on completion of the work or after entering into a firm contract whereby the cost of the undertaking is established and construction of the work has commenced.

The proposed re-enactment of subsection 3 of section 53 is complementary to the re-enactment of subsection 2.

## An Act to amend The Local Improvement Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 2 and 3 of section 53 of *The Local Improvement Act*, being chapter 255 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 53 (2, 3), re-enacted

(2) The council may,

Issue of  
debentures

- (a) when the work undertaken is completed; or
- (b) when a firm contract for the carrying out of the work has been entered into whereby the cost of completing the undertaking is established and construction of the work has commenced,

borrow on the credit of the corporation at large such sums as may be necessary to repay temporary loans made by the corporation pending the completion of the work and to defray the cost of the work undertaken, including the corporation's portion of the cost, and may issue debentures for the sums so borrowed.

(3) Where the council has undertaken the construction of several sewers connected as a system of sewers, Sewer systems

- (a) the council may not proceed under clause *a* of subsection 2 until all the sewers in the system are completed; and
- (b) the council may not proceed under clause *b* of subsection 2 until firm contracts for carrying out the work have been entered into whereby the cost of completing all of the sewers in the system is established and construction of the system has commenced,

and there shall be added to the cost of each sewer forming part of the system its proportionate share of the whole of the interest upon the temporary loans made by the corporation pending the construction of all the sewers forming the system as if all the sewers had been constructed at the same time.

s. 74,  
enacted

- 2.** The said Act is amended by adding thereto the following section:

Use of  
imperial  
measurement  
1978, c. 87

74. Notwithstanding section 39 of *The Metric Conversion Statute Law Amendment Act, 1978*, where, before the 1st day of February, 1979, a municipality has passed a by-law for undertaking a work, or the approval of the Board has been given to an undertaking, the areas, diameters, distances and frontages, and frontage rates may, for all purposes of this Act, continue to be expressed in units of imperial measure and Forms 1 to 4, as they existed on the 31st day of January, 1979, may continue to be used with respect to such undertakings.

Form 2,  
amended

- 3.**—(1) Form 2 of the said Act is amended by striking out “foot” in the eleventh line, in the thirteenth line and in the second line of the Note and inserting in lieu thereof in each instance “metre”.

Form 3,  
amended

- (2) Form 3 of the said Act is amended by striking out “foot” in the eleventh line and in the third line of the Note and inserting in lieu thereof in each instance “metre”.

Form 4,  
amended

- (3) Form 4 of the said Act is amended by striking out “foot” in the sixth line and in the third line of the Note and inserting in lieu thereof in each instance “metre”.

Commence-  
ment

- 4.**—(1) This Act, except sections 2 and 3, comes into force on the day it receives Royal Assent.

Idem

- (2) Sections 2 and 3 shall be deemed to have come into force on the 1st day of February, 1979.

Short title

- 5.** The short title of this Act is *The Local Improvement Amendment Act, 1979*.

SECTION 2. The new section 74 permits municipalities that have passed a by-law for undertaking a work or received Ontario Municipal Board approval for an undertaking prior to the 1st day of February, 1979 to continue to use imperial units of measurement for all purposes of the Act.

SECTION 3. The amendments to Forms 2 to 4 are necessary to be consistent with other amendments to the Act made under *The Metric Conversion Statute Law Amendment Act, 1978*, chapter 87, section 39.





An Act to amend  
The Local Improvement Act

---

*1st Reading*

April 10th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

---

*(Government Bill)*

112 ON  
18  
-B56

3  
BILL 46

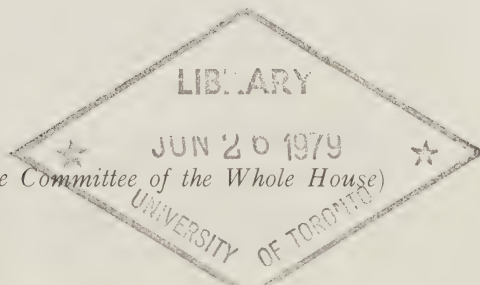
Government  
Publications  
Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to amend The Local Improvement Act**

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

*(Reprinted as amended by the Committee of the Whole House)*





#### EXPLANATORY NOTES

SECTION 1. At present, a municipality may issue debentures with respect to a local improvement only when the work undertaken has been completed. The proposed re-enactment of subsection 2 of section 53 will permit the council of a municipality to issue debentures either on completion of the work or after entering into a firm contract whereby the cost of the undertaking is established and construction of the work has commenced.

The proposed re-enactment of subsection 3 of section 53 is complementary to the re-enactment of subsection 2.

BILL 46

1979

## An Act to amend The Local Improvement Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 2 and 3 of section 53 of *The Local Improvement Act*, being chapter 255 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 53 (2, 3),  
re-enacted

(2) The council may,

Issue of  
debentures

- (a) when the work undertaken is completed; or
- (b) when a firm contract for the carrying out of the work has been entered into whereby the cost of completing the undertaking is established and construction of the work has commenced,

borrow on the credit of the corporation at large such sums as may be necessary to repay temporary loans made by the corporation pending the completion of the work and to defray the cost of the work undertaken, including the corporation's portion of the cost, and may issue debentures for the sums so borrowed.

(3) Where the council has undertaken the construction of several sewers connected as a system of sewers, Sewer  
systems

- (a) the council may not proceed under clause *a* of subsection 2 until all the sewers in the system are completed; and
- (b) the council may not proceed under clause *b* of subsection 2 until firm contracts for carrying out the work have been entered into whereby the cost of completing all of the sewers in the system is established and construction of the system has commenced,

and there shall be added to the cost of each sewer forming part of the system its proportionate share of the whole of the interest upon the temporary loans made by the corporation pending the construction of all the sewers forming the system as if all the sewers had been constructed at the same time.

s. 74,  
enacted



- 2.** The said Act is amended by adding thereto the following section:

Transition  
period for  
use of  
imperial  
measurements  
1978, c. 87

74. Notwithstanding section 39 of *The Metric Conversion Statute Law Amendment Act, 1978*, where, before the 1st day of September, 1979, a municipality passes a by-law for undertaking a work, or obtains the approval of the Board to an undertaking, the areas, diameters, distances and frontages, and frontage rates may, for all purposes of this Act, be expressed in units of imperial measure and Forms 1 to 4, as they existed on the 31st day of January, 1979, may continue to be used with respect to such undertakings.



Form 2,  
amended

- 3.—**(1) Form 2 of the said Act is amended by striking out “foot” in the eleventh line, in the thirteenth line and in the second line of the Note and inserting in lieu thereof in each instance “metre”.

Form 3,  
amended

- (2) Form 3 of the said Act is amended by striking out “foot” in the eleventh line and in the third line of the Note and inserting in lieu thereof in each instance “metre”.

Form 4,  
amended

- (3) Form 4 of the said Act is amended by striking out “foot” in the sixth line and in the third line of the Note and inserting in lieu thereof in each instance “metre”.

Commence-  
ment

- 4.—**(1) This Act, except sections 2 and 3, comes into force on the day it receives Royal Assent.

Idem

- (2) Sections 2 and 3 shall be deemed to have come into force on the 1st day of February, 1979.

Short title

- 5.** The short title of this Act is *The Local Improvement Amendment Act, 1979*.

SECTION 2. The new section 74 permits municipalities that pass by-laws for undertaking works or receive Ontario Municipal Board approval for undertakings prior to the 1st day of September, 1979 to use imperial units of measurement for all purposes of the Act with respect to the works or undertakings.

SECTION 3. The amendments to Forms 2 to 4 are necessary to be consistent with other amendments to the Act made under *The Metric Conversion Statute Law Amendment Act, 1978*, chapter 87, section 39.





---

An Act to amend  
The Local Improvement Act

---

*1st Reading*

April 10th, 1979

*2nd Reading*

June 15th, 1979

*3rd Reading*

---

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

---

(Reprinted as amended by the  
Committee of the Whole House)

CA20N  
XB  
-B56

Government  
Publications

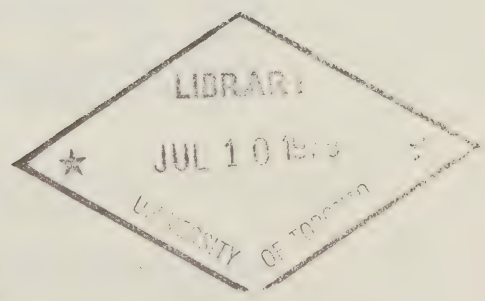
17 **BILL 46**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

*Legislative Assembly*

**An Act to amend The Local Improvement Act**

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs







BILL 46

1979

## An Act to amend The Local Improvement Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 2 and 3 of section 53 of *The Local Improvement Act*, being chapter 255 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 53 (2, 3),  
re-enacted

(2) The council may,

Issue of  
debentures

(a) when the work undertaken is completed; or

(b) when a firm contract for the carrying out of the work has been entered into whereby the cost of completing the undertaking is established and construction of the work has commenced,

borrow on the credit of the corporation at large such sums as may be necessary to repay temporary loans made by the corporation pending the completion of the work and to defray the cost of the work undertaken, including the corporation's portion of the cost, and may issue debentures for the sums so borrowed.

(3) Where the council has undertaken the construction of several sewers connected as a system of sewers, Sewer  
systems

(a) the council may not proceed under clause *a* of subsection 2 until all the sewers in the system are completed; and

(b) the council may not proceed under clause *b* of subsection 2 until firm contracts for carrying out the work have been entered into whereby the cost of completing all of the sewers in the system is established and construction of the system has commenced,

and there shall be added to the cost of each sewer forming part of the system its proportionate share of the whole of the interest upon the temporary loans made by the corporation pending the construction of all the sewers forming the system as if all the sewers had been constructed at the same time.

s. 74,  
enacted

- 2.** The said Act is amended by adding thereto the following section:

Transition  
period for  
use of  
imperial  
measurements  
1978, c. 87

74. Notwithstanding section 39 of *The Metric Conversion Statute Law Amendment Act, 1978*, where, before the 1st day of September, 1979, a municipality passes a by-law for undertaking a work, or obtains the approval of the Board to an undertaking, the areas, diameters, distances and frontages, and frontage rates may, for all purposes of this Act, be expressed in units of imperial measure and Forms 1 to 4, as they existed on the 31st day of January, 1979, may continue to be used with respect to such undertakings.

Form 2,  
amended

- 3.—**(1) Form 2 of the said Act is amended by striking out "foot" in the eleventh line, in the thirteenth line and in the second line of the Note and inserting in lieu thereof in each instance "metre".

Form 3,  
amended

- (2) Form 3 of the said Act is amended by striking out "foot" in the eleventh line and in the third line of the Note and inserting in lieu thereof in each instance "metre".

Form 4,  
amended

- (3) Form 4 of the said Act is amended by striking out "foot" in the sixth line and in the third line of the Note and inserting in lieu thereof in each instance "metre".

Commence-  
ment

- 4.—**(1) This Act, except sections 2 and 3, comes into force on the day it receives Royal Assent.

Idem

- (2) Sections 2 and 3 shall be deemed to have come into force on the 1st day of February, 1979.

Short title

- 5.** The short title of this Act is *The Local Improvement Amendment Act, 1979*.







---

## BILL 46

---

An Act to amend  
The Local Improvement Act

---

*1st Reading*

April 10th, 1979

*2nd Reading*

June 15th, 1979

*3rd Reading*

June 15th, 1979

---

THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

---

3  
17 **BILL 47**  
14

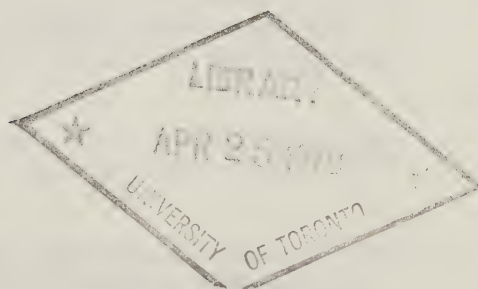
Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

12 Legislative Assembly  
1979

**An Act to repeal The Succession Duty Act**

THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics





#### EXPLANATORY NOTES

SECTION 1. *The Succession Duty Act* is repealed and does not apply in respect of death occurring after April 10, 1979. Duty continues to be payable in respect of death occurring before April 11, 1979.

SECTION 2. Subsection 9 of section 50 of *The Registry Act* is amended to dispense with the registration of the Minister's consents for the registration of conveyances in respect of deaths occurring after the repeal of *The Succession Duty Act*.

SECTION 3. Subsection 7 of section 140 of *The Land Titles Act* is amended to parallel the amendment to *The Registry Act* made by section 2 of the Bill.

## An Act to repeal The Succession Duty Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Succession Duty Act*, being chapter 449 of the Revised Statutes of Ontario, 1970, *The Succession Duty Amendment Act, 1971*, being chapter 15, *The Succession Duty Amendment Act, 1971 (No. 2)*, being chapter 3, *The Succession Duty Amendment Act, 1972*, being chapter 17, *The Succession Duty Amendment Act, 1973*, being chapter 109, *The Succession Duty Amendment Act, 1974*, being chapter 40, *The Succession Duty Amendment Act, 1975*, being chapter 14, *The Succession Duty Amendment Act, 1976*, being chapter 20, *The Succession Duty Amendment Act, 1977*, being chapter 8, the Statutes of Ontario, 1971, chapter 98, section 4, Schedule, paragraph 33 and section 22 of *The Children's Law Reform Act, 1977*, being chapter 41, are repealed and do not apply in respect of a deceased person whose death occurred on or after the 11th day of April, 1979, but the statutes hereby repealed continue to apply in respect of a deceased person whose death occurred on or before the 10th day of April, 1979. Repeals
2. Subsection 9 of section 50 of *The Registry Act*, being chapter 409 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1977, chapter 8, section 7, is repealed and the following substituted therefor: R.S.O. 1970,  
c. 409,  
s. 50 (9),  
re-enacted

(9) Subsections 4 to 7 do not apply where the deceased person died prior to the 1st day of January, 1950 or after the 10th day of April, 1979. Application  
of subss. 4-7
3. Subsection 2 of section 140 of *The Land Titles Act*, being chapter 234 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1977, chapter 8, section 8, is repealed and the following substituted therefor: R.S.O. 1970,  
c. 234,  
s. 140 (2),  
re-enacted

(2) Subsections 1 and 1a do not apply where the death of the registered owner occurred prior to the 1st day of January, 1950 or after the 10th day of April, 1979. Saving

Commence-  
ment

- 4.** This Act shall be deemed to have come into force on the 11th day of April, 1979.

Short title

- 5.** The short title of this Act is *The Succession Duty Repeal Act, 1979*.







---

# BILL 47

---

An Act to repeal  
The Succession Duty Act

---

*1st Reading*

April 10th, 1979

*2nd Reading*

*3rd Reading*

---

THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

---

*(Government Bill)*

---

**BILL 47**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to repeal The Succession Duty Act**

THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO





BILL 47

1979

## An Act to repeal The Succession Duty Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Succession Duty Act*, being chapter 449 of the Revised Statutes of Ontario, 1970, *The Succession Duty Amendment Act, 1971*, being chapter 15, *The Succession Duty Amendment Act, 1971* (No. 2), being chapter 3, *The Succession Duty Amendment Act, 1972*, being chapter 17, *The Succession Duty Amendment Act, 1973*, being chapter 109, *The Succession Duty Amendment Act, 1974*, being chapter 40, *The Succession Duty Amendment Act, 1975*, being chapter 14, *The Succession Duty Amendment Act, 1976*, being chapter 20, *The Succession Duty Amendment Act, 1977*, being chapter 8, the Statutes of Ontario, 1971, chapter 98, section 4, Schedule, paragraph 33 and section 22 of *The Children's Law Reform Act, 1977*, being chapter 41, are repealed and do not apply in respect of a deceased person whose death occurred on or after the 11th day of April, 1979, but the statutes hereby repealed continue to apply in respect of a deceased person whose death occurred on or before the 10th day of April, 1979. Repeals
2. Subsection 9 of section 50 of *The Registry Act*, being chapter 409 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1977, chapter 8, section 7, is repealed and the following substituted therefor: R.S.O. 1970, c. 409, s. 50 (9), re-enacted

(9) Subsections 4 to 7 do not apply where the deceased person died prior to the 1st day of January, 1950 or after the 10th day of April, 1979. Application of subss. 4-7
3. Subsection 2 of section 140 of *The Land Titles Act*, being chapter 234 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1977, chapter 8, section 8, is repealed and the following substituted therefor: R.S.O. 1970, c. 234, s. 140 (2), re-enacted

(2) Subsections 1 and 1a do not apply where the death of the registered owner occurred prior to the 1st day of January, 1950 or after the 10th day of April, 1979. Saving

Commence-  
ment

4. This Act shall be deemed to have come into force on the 11th day of April, 1979.

Short title

5. The short title of this Act is *The Succession Duty Repeal Act, 1979*.







---

An Act to repeal  
The Succession Duty Act

---

*1st Reading*

April 10th, 1979

*2nd Reading*

May 8th, 1979

*3rd Reading*

May 8th, 1979

---

---

THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

---

**BILL 48**

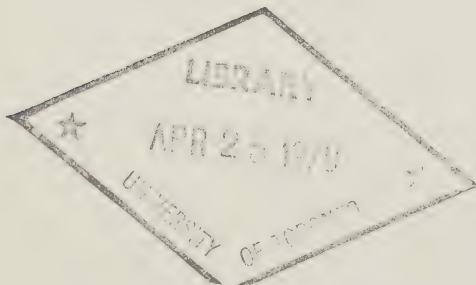
Government Bill

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

*Legislative*

**An Act to repeal The Gift Tax Act, 1972**

THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTE

*The Gift Tax Act, 1972* is repealed and does not apply in respect of gifts made after April 10, 1979. Tax under the Act continues to be payable on gifts made before April 11, 1979.

BILL 48

1979

## An Act to repeal The Gift Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Gift Tax Act, 1972*, being chapter 12, *The Gift Tax Amendment Act, 1973*, being chapter 165, *The Gift Tax Amendment Act, 1975*, being chapter 15, *The Gift Tax Amendment Act, 1976*, being chapter 11 and *The Gift Tax Amendment Act, 1977*, being chapter 17, are repealed and do not apply in respect of gifts made on or after the 11th day of April, 1979, but the statutes hereby repealed continue to apply in respect of all gifts made on or before the 10th day of April, 1979. Acts,  
repealed
2. This Act shall be deemed to have come into force on the 11th day of April, 1979. Commence-  
ment
3. The short title of this Act is *The Gift Tax Repeal Act, 1979*. Short title

An Act to repeal  
The Gift Tax Act, 1972

*1st Reading*

April 10th, 1979

*2nd Reading*

*3rd Reading*

THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

*(Government Bill)*

2  
BILL 48

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

An Act to repeal The Gift Tax Act, 1972

THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL 48

1979

## An Act to repeal The Gift Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Gift Tax Act, 1972*, being chapter 12, *The Gift Tax Amendment Act, 1973*, being chapter 165, *The Gift Tax Amendment Act, 1975*, being chapter 15, *The Gift Tax Amendment Act, 1976*, being chapter 11 and *The Gift Tax Amendment Act, 1977*, being chapter 17, are repealed and do not apply in respect of gifts made on or after the 11th day of April, 1979, but the statutes hereby repealed continue to apply in respect of all gifts made on or before the 10th day of April, 1979. Acts,  
repealed
2. This Act shall be deemed to have come into force on the 11th day of April, 1979. Commence-  
ment
3. The short title of this Act is *The Gift Tax Repeal Act, 1979*. Short title

---

## BILL 48

---

An Act to repeal  
The Gift Tax Act, 1972

---

*1st Reading*

April 10th, 1979

*2nd Reading*

May 10th, 1979

*3rd Reading*

May 10th, 1979

---

THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

---

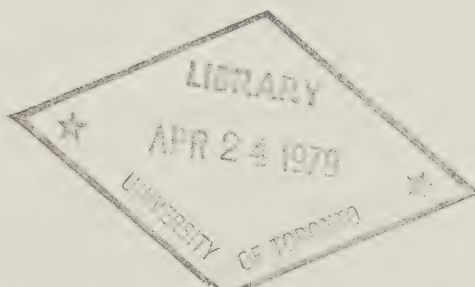
**BILL 49**

**Government Bill**

3RD SESSION, 31ST LEGISLATURE, <sup>1</sup>ONTARIO  
28 ELIZABETH II, 1979 *Legislature*

**An Act respecting  
Small Business Development Corporations**

THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTE

The purpose of the Bill is to encourage equity investment in Ontario-based small businesses. An incentive will be provided to investors who buy shares in small business development corporations (SBDCs) established for the purpose of directing the invested funds to qualifying businesses. The Bill provides for, among other things:

1. A system of registration for small business development corporations within the Ministry of Revenue.
2. A grant of 30 per cent of the investment in an SBDC to be paid to individuals who invest in equity shares of the SBDC and a 30 per cent credit against tax otherwise payable under *The Corporations Tax Act, 1972* for corporate investors.
3. Rules are set out detailing the types of investments that an SBDC may make. For example, only shares issued by a small business after the Act comes into force are eligible.
4. *The Venture Investment Corporations Registration Act, 1977* is repealed.

BILL 49

1979

## An Act respecting Small Business Development Corporations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-  
tation

- (a) “associate”, where used to indicate a relationship with any person, means,
  - (i) any corporation of which such person beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding,
  - (ii) any partner of that person or corporation,
  - (iii) any trust or estate in which such person or corporation has, in the opinion of the Minister, a substantial beneficial interest or as to which such person or corporation serves as trustee or in a similar capacity,
  - (iv) any spouse, parent, son or daughter, brother or sister of that person, or
  - (v) any relative of such person or of his spouse, other than a relative referred to in subclause iv, who has the same home as such person;
- (b) “corporation” means any body corporate whether or not it is a corporation to which *The Business Corporations Act* applies; R.S.O. 1970,  
c. 53
- (c) “debt obligation” means a mortgage, bond, debenture, note or other similar obligation of a corporation, whether secured or unsecured;

- (d) “eligible investment” means an investment in a small business that complies with section 9;
- (e) “equity capital” means the amount of consideration paid in money, calculated in the prescribed manner, for which equity shares are issued;
- (f) “equity share” means any share of any class of shares of a corporation carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing;
- (g) “Minister” means the Minister of Revenue or such other member of the Executive Council to whom the administration of this Act is assigned;
- (h) “Ministry” means the Ministry of the Minister;
- (i) “person” means, except as otherwise expressly provided, an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator or other legal representative;
- (j) “prescribed” means prescribed by the regulations;
- (k) “register” means the register under this Act;
- (l) “regulations” means the regulations made under this Act;
- (m) “security” means any share of any class of shares or any debt obligation of a corporation;
- (n) “small business” means a corporation having not more than the prescribed number of employees;
- (o) “small business development corporation” means a corporation registered under this Act.

Interpre-  
tation  
subsidiary  
corporation

(2) A corporation shall be deemed to be a subsidiary of another corporation if,

- (a) it is controlled by,
  - (i) that other, or
  - (ii) that other and one or more corporations each of which is controlled by that other, or

- (iii) two or more corporations each of which is controlled by that other; or
  - (b) it is a subsidiary of a corporation that is that other's subsidiary.
- (3) A corporation shall be deemed to be another's <sup>holding</sup> holding corporation if that other is its subsidiary.
- (4) One corporation shall be deemed to be affiliated with <sup>affiliated</sup> another corporation if one of them is the subsidiary of the other or both are subsidiaries of the same corporation or each of them is controlled by the same person.
- (5) Unless otherwise prescribed, a corporation shall be <sup>Control</sup> deemed to be controlled by another person or corporation or by two or more corporations if,
- (a) shares of the first-mentioned corporation carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other corporations; and
  - (b) the votes carried by such shares are sufficient if exercised to elect a majority of the board of directors of the first-mentioned corporation.
- (6) In calculating the total number of equity shares of a <sup>Calculation of total number of equity shares</sup> corporation beneficially owned or controlled, for the purposes of this Act, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes carried.
- (7) In determining the number of shareholders of a cor- <sup>Number of shareholders</sup> poration, for the purposes of this Act, two or more persons holding the same share or shares jointly shall be counted as one shareholder.
- (8) For the purpose of determining whether or not a cor- <sup>Deter- mination of small business</sup> poration is a small business, there shall be taken into account the number of employees of any affiliated corporation.

#### REGISTER

**2.—(1)** The Minister shall maintain a register of small <sup>Register</sup> business development corporations in which he shall list all

corporations registered under this Act and the register shall be open for public inspection during normal office hours.

Delegation  
by Minister

(2) The Minister may delegate in writing any of his duties or powers under this Act to any public servant.

#### REGISTRATION

Registration  
R.S.O. 1970,  
c. 53

**3.**—(1) A corporation incorporated under *The Business Corporations Act* may apply to be registered under this Act by delivering to the Minister a proposal in duplicate.

Contents of  
proposal

(2) A proposal shall set out:

1. The name of the corporation.
2. The location of the head office of the corporation in Ontario, including the street and number, if any.
3. The authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares in each class, and the aggregate consideration exceeding which all shares of each class may not be issued.
4. The issued capital of each class of shares, including the aggregate consideration therefor.
5. The amounts and kinds of debt obligations, if any, issued by the corporation.
6. The number of directors of the corporation and the names in full and the residence addresses of each, giving the street and number, if any.
7. The names in full of the officers of the corporation and the residence addresses of each, giving the street and number, if any.
8. Any other matter prescribed to be set out in the proposal.

Articles of  
incorporation

(3) A proposal shall be accompanied by a certified copy of the corporation's articles of incorporation.

Execution of  
proposal

(4) The proposal shall be executed under the seal of the corporation and signed by two officers or one director and one officer of the corporation and certified by affidavit of one of the officers or directors signing the proposal.

4. No corporation shall be registered under this Act <sup>Conditions of registration</sup> unless,

- (a) the corporation complies with all provisions of *The Business Corporations Act*; <sup>R.S.O. 1970, c. 53</sup>
- (b) the corporation has never previously carried on business;
- (c) its equity shares are without par value and may be issued for an aggregate consideration of not less than \$250,000;
- (d) the corporation has objects only to assist in the development of small businesses by,
  - (i) providing capital through the acquisition and holding of securities, and
  - (ii) providing business and managerial expertise to small businesses;
- (e) the corporation has equity capital of at least \$25,000; and
- (f) the corporation meets such other conditions as may be prescribed.

5.—(1) Subject to subsection 4, a corporation is entitled <sup>Registration</sup> to registration by the Minister except where,

- (a) the applicant fails to comply with section 3 or 4, as the case may be; or
- (b) the applicant fails to file the material required by this Act or the regulations.

(2) Subject to section 28, the Minister may refuse to register <sup>Refusal to register</sup> a corporation where in the Minister's opinion the applicant is disentitled to registration under subsection 1 of this section.

(3) Subject to section 28, the Minister may revoke a registration <sup>Revocation of registration</sup> where the registrant fails to comply with any provision of this Act or the regulations.

(4) Where the Minister is of the opinion that the number <sup>Minister may suspend further registrations or incentives</sup> of corporations registered under this Act will be sufficient to take up the prescribed amount of money payable by way of grant under section 21 or foregone by way of tax credit under section 22, the Minister may, subject to the approval of



the Lieutenant Governor in Council, by order, suspend the further registration of corporations, or the payment of grants and the allowance of tax credits under this Act for such period of time as is specified in the order.

Saving

(5) No order under subsection 4 shall operate to prevent the Minister from making a grant where the shares were fully paid for and beneficially owned by the shareholder prior to the making of the order, or operate to prevent the carrying forward of a tax credit under section 23.

Registration

**6.** If a corporation complies with sections 3 and 4, the Minister shall, when all prescribed fees have been paid,

(a) endorse on each duplicate of the proposal the word "Registered" and the day, month and year of the registration thereof;

(b) file one of the duplicates in his office;

(c) place the name of the corporation in the register of small business development corporations; and

(d) issue to the registrants a certificate of registration to which he shall affix the other duplicate.

Minimum  
capital and  
investment

**7.—(1)** Prior to the end of its first year of registration under this Act, a small business development corporation shall have equity capital of at least \$250,000 and at least 40 per cent of the amount of its equity capital shall be in eligible investments.

Idem

(2) Prior to the end of its second year of registration under this Act, a small business development corporation shall have invested at least 70 per cent of its equity capital in eligible investments.

Idem

(3) After the end of its second year of registration under this Act, a small business development corporation shall at all times maintain an average of at least 70 per cent, calculated in the prescribed manner, on the last day of each month of the immediately preceding twelve months, of its equity capital in eligible investments.

Capital  
limits

(4) After the first year of its registration under this Act, a small business development corporation shall at all times maintain equity capital of at least \$250,000 but not exceeding \$5,000,000.

Trust  
fund

**8.—(1)** A small business development corporation shall set aside in a trust fund an amount of money equal to 30 per

cent of all amounts received by it as equity capital and such trust fund shall be held by the corporation, or by a trustee on behalf of the corporation, in trust for the corporation and for the Crown jointly to be dealt with in accordance with this section.

(2) Subject to subsection 3, while any amount is held in trust under subsection 1, the Minister shall permit payment from the fund of an amount equal to three-sevenths of the purchase price paid by the small business development corporation to acquire any eligible investment, provided that the Minister is satisfied that the purchase price of such eligible investment has been paid in full in money or that the amount permitted to be paid out by the Minister will be used by the corporation in payment of the purchase price of the eligible investment. <sup>Payment out of fund</sup>

(3) The money held in trust in accordance with subsection 1 shall not be paid out to any person or corporation unless the Minister has consented in writing to such payment. <sup>Idem</sup>

(4) Interest earned on the trust fund established in accordance with subsection 1 shall be paid to the small business development corporation. <sup>Interest</sup>

(5) Where the registration of a small business development corporation is revoked, the amount then remaining in the trust fund established under subsection 1 is immediately payable to the Crown, and the receipt of the Minister therefor is a full and sufficient discharge to any trustee for such money or to any other person or corporation having control of the trust funds, for the payment over of such money to the Crown, and such payment is a full and complete discharge to the person or corporation making it and for any claim to such payment by any person or corporation that claims to be entitled to the funds. <sup>Payment out of fund</sup>

(6) Where any person or corporation fails to make the payment to the Crown required by subsection 5, such person or corporation is liable to the Crown for the amount that should have been paid pursuant to subsection 5. <sup>Idem</sup>

#### ELIGIBLE INVESTMENTS

9.—(1) An investment shall be an eligible investment if, <sup>Eligible investments</sup>

- (a) the investment is made in a small business and 75 per cent or more of the wages and salaries of the small business are paid in respect of operations in Ontario;



- (b) the investment is made in a small business primarily engaged in,
  - (i) prescribed manufacturing and processing, or
  - (ii) prescribed tourist activities, or
  - (iii) prescribed mineral exploration and development, or
  - (iv) any other prescribed business activity;
- (c) the investment is the purchase and acquisition by the small business development corporation of equity shares that are issued by a small business on or after the coming into force of this Act and the equity shares are not issued as part of a transaction involving the purchase or redemption, directly or indirectly, of any shares of the small business or an affiliated corporation that were issued and outstanding prior to the coming into force of this Act;
- (d) the investment is not used by the small business for the purpose of,
  - (i) relending,
  - (ii) investment in land except such land as is incidental and ancillary to the principal objects of the small business, or
  - (iii) reinvestment outside Canada;
- (e) the number of equity shares taken by the small business development corporation and any affiliated corporation in the small business in which the small business development corporation and the affiliated corporation invests does not at any time exceed 49 per cent, determined in accordance with subsection 2, of all issued and outstanding equity shares of such small business;
- (f) the investment is made in a small business in which,
  - (i) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction does not exceed 25 per cent of the total number of issued and outstanding equity shares of the corporation, or

- (ii) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by a non-resident or over which he exercises control or direction, together with other shareholders associated with him, if any, does not exceed 10 per cent of the total number of issued and outstanding equity shares of the corporation; and

- (g) the small business is not of a type prescribed by the regulations.

(2) In determining the percentage of issued and outstanding equity shares of a small business for the purposes of clause *e* of subsection 1, there shall be included, Manner of determining percentage of equity shares

- (a) the number of equity shares into which any debt obligation of such small business may be converted;
- (b) any option or right to purchase equity shares of such small business; and
- (c) any equity shares, convertible debt obligations and any options or rights of such small business beneficially owned or held by an associate or an affiliated corporation of the small business development corporation or any shareholder of it, or an associate or affiliated corporation of such shareholder.

**10.**—(1) A small business development corporation shall Investments maintain its assets in,

- (a) eligible investments;
- (b) liquid reserves;
- (c) equity shares that were eligible investments at the time they were acquired by such small business development corporation;
- (d) debt obligations of any small business that is an eligible investment; or
- (e) such other form as may be prescribed.

(2) Assets of the corporation maintained in liquid reserves Liquid reserves shall be deposited from time to time in any chartered bank to which the *Bank Act* (Canada) applies, or in any trust company or loan corporation that is registered under *The Loan and Trust Corporations Act*, or with the Province of R.S.C. 1970, c. B-1  
R.S.O. 1970, c. 254 Ontario Savings Office or in such other investments as may

be prescribed, upon such terms and conditions and for such period as the corporation considers expedient.

Interpre-  
tation

**11.**—(1) In this section and in clause *f* of subsection 1 of section 9,

- (a) “corporation” includes an association, partnership or other organization;
- (b) “non-resident” means,
  - (i) an individual who is not a resident Canadian,
  - (ii) a corporation incorporated, formed or otherwise organized elsewhere than in Canada,
  - (iii) a corporation that is controlled directly or indirectly by non-residents as defined in sub-clause i or ii,
  - (iv) a trust in which non-residents as defined in subclause i, ii or iii have more than 50 per cent of the beneficial interest, or
  - (v) a corporation that is controlled directly or indirectly by a trust mentioned in sub-clause iv;
- (c) “resident” means an individual, corporation or trust that is not a non-resident.

Idem

(2) For the purpose of clause *f* of subsection 1 of section 9, a shareholder shall be deemed to be associated with another shareholder if,

- (a) one shareholder is a corporation of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a corporation that is controlled directly or indirectly by the other shareholder;
- (d) both shareholders are corporations and one shareholder is controlled directly or indirectly by the same individual or corporation that controls directly or indirectly the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or

- (f) both shareholders are associated within the meaning of clauses *a* to *e* with the same shareholder.

**12.—**(1) A small business development corporation shall not invest or maintain an investment in a small business if, Prohibited investments

- (a) any of the shares of such small business are held by,
- (i) a major shareholder or an affiliated corporation or an associate thereof of the small business development corporation,
  - (ii) an officer or director or an associate thereof of a small business development corporation or an officer or director or an associate thereof of a major shareholder of the small business development corporation, or
  - (iii) a voting trust where the trust relates to the shares of the small business development corporation; or
- (b) such small business is a subsidiary, a holding corporation or affiliated corporation of the small business development corporation.

(2) Unless a small business development corporation is widely held, it shall not invest in a small business if the proceeds of that investment are used or are intended to be used, in whole or in part, to finance the purchase or sale of goods or services provided to such small business by or through any shareholder of the small business development corporation or any associate or affiliated corporation of such shareholder. Restriction on investment

(3) For the purposes of this section,

Interpretation

- (a) “major shareholder” means a person who holds 10 per cent or more of the voting rights attached to all equity shares of the small business development corporation for the time being outstanding and none of the shareholders are associates or affiliated corporations; and
- (b) a small business development corporation is widely held if the corporation has ten or more shareholders, each holding not more than 10 per cent of the issued and outstanding equity shares of the corporation and none of the shareholders are associates or affiliated corporations.

Material  
change

**13.**—(1) In this section, a material change occurs if the investment of a small business development corporation ceases to be an eligible investment.

Notification

(2) A small business development corporation shall notify the Minister in the prescribed form of any material change in any of its investments within thirty days of the occurrence thereof.

Eligible  
investment

(3) Where there is a material change, the investment by a small business development corporation shall remain an eligible investment, notwithstanding any other provision of this Act, for a period of two years from the date of the material change.

Restriction  
on disposition  
of equity  
shares

**14.**—(1) No equity shares and no option or right to acquire equity shares of a small business or of a corporation that has ceased to be a small business or an eligible investment shall be transferred or granted by a small business development corporation without first granting to all other holders of the equity shares of such small business or corporation the right to acquire the whole or any part of such equity shares, option or right upon the same terms and conditions.

Proviso

(2) Only a holder of equity shares that is not a small business development corporation may exercise the right to acquire equity shares, options or rights under subsection 1.

Application  
of  
R.S.O. 1970,  
c. 53

**15.** Notwithstanding the provisions of section 167 of *The Business Corporations Act*, every small business development corporation shall comply with the provisions of sections 168 and 169, subsections 1 to 4 of section 170, and section 171 and clause *c* of subsection 1 and subsection 3 of section 172 of that Act in each year.

Filing of  
financial  
statements

**16.** Within six months of the date to which it is made up, a small business development corporation shall file with the Minister its financial statements and the auditor's report thereon.

#### INFORMATION

Returns

**17.**—(1) Within ninety days after each anniversary of the date of its registration, every small business development corporation shall prepare, verify and file with the Minister, a return in the prescribed form setting out, as of its anniversary date, the information required by such return.

Notice to  
Minister

(2) A small business development corporation shall notify the Minister in the prescribed form, of any action involving,



- (a) the payment of any dividend on the equity shares of the corporation;
- (b) the purchase, surrender, redemption or conversion of any equity share of the corporation;
- (c) the disposition or sale of any eligible investment; or
- (d) the winding up or dissolution of the corporation,

at least twenty-one days prior to carrying out the proposed action.

- (3) The Minister may, in his discretion, enlarge the time for filing any notice or return under this section. Enlargement of time by Minister

**18.** The Minister may at any time by notice require any small business development corporation or any corporation in which the small business development corporation has invested to file within the time specified in the notice a return upon any subject connected with its affairs and, in the opinion of the Minister, relevant to the administration or enforcement of this Act. Information required by the Minister

#### INVESTMENT INCENTIVES

**19.** Where a small business development corporation is registered under this Act, the corporation is not liable for the tax imposed by Part III of *The Corporations Tax Act*, 1972, c. 143 Exemption from capital tax 1972.

**20.**—(1) Subject to subsections 2 and 3 of this section and subsection 4 of section 5, where a person or a corporation complies with the provisions of this Act, the Minister may make a grant under section 21 or allow a tax credit under section 22. Incentives

(2) Unless a small business development corporation has established and maintained a trust as provided in section 8, the Minister shall not make a grant under section 21 or allow a tax credit under section 22 to any shareholder of that corporation. Idem

(3) Subject to section 28, where the Minister is of the opinion that the small business development corporation, its officers or directors, or its shareholders are conducting their business and affairs in a manner that is contrary to the spirit and intent of this Act or for the purpose of obtaining a grant or tax credit to which they would not otherwise be entitled, the Minister may, Revocation of registration, or refusal of grant

(a) revoke the registration of the small business development corporation; or

(b) refuse to pay a grant under section 21 or allow a tax credit under section 22.

Saving

(4) Where a small business development corporation does not comply with the provisions of this Act or the regulations, but the Minister is of the opinion that the corporation is meeting the spirit and intent of this Act, the Minister may, for such time as in his opinion is appropriate, refrain from revoking the registration of any corporation.

Payment  
of grant

**21.**—(1) Subject to subsections 2 and 3, a person who is the beneficial and registered owner of equity shares of a small business development corporation may make an application in the form prescribed by the Minister for a grant and the Minister may pay a grant equal to 30 per cent of the amount of money actually paid by the applicant to the small business development corporation for equity shares issued to him by the corporation.

Idem

(2) No grant shall be paid by the Minister under subsection 1 unless,

(a) the equity shares are purchased or acquired directly from the corporation issuing the equity shares; and

(b) the applicant is resident in Ontario.

Supporting  
material

(3) An application under subsection 1 shall be accompanied by,

(a) a certificate containing the prescribed information signed by the secretary and one authorized officer of the small business development corporation that has issued the equity shares in respect of which a grant is sought; and

(b) such additional material as may be prescribed by the Minister.

Interpre-  
tation

(4) In this section and in section 20, "person" means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator, or other legal representative that is ordinarily resident in Ontario, but does not include a partnership, association, syndicate, organization or trust that has a corporation as one of its members or beneficiaries.

**22.**—(1) Subject to subsection 2, a corporation that is the beneficial and registered owner of equity shares of a small business development corporation may, subject to the approval of the Minister, deduct from the tax otherwise payable by it under *The Corporations Tax Act, 1972*, an amount equal to 30 per cent of the amount of money actually paid by the corporation to the small business development corporation for equity shares issued to it by the corporation. Tax credit  
1972, c. 143

(2) Where a corporation claims a tax credit under subsection 1, the annual return required under section 145 of *The Corporations Tax Act, 1972*, in which the credit is claimed shall be accompanied by, Supporting material

(a) a certificate containing the prescribed information signed by the secretary and one authorized officer of the small business development corporation that has issued the equity shares in respect of which a tax credit is sought; and

(b) such additional material as may be prescribed by the Minister.

**23.** The unused portion of a tax credit obtained under subsection 1 of section 22 may be carried forward by the corporation and deducted from the tax otherwise payable by the taxpayer under *The Corporations Tax Act, 1972* in subsequent taxation years. Carry forward  
of tax credit

**24.** Where a small business development corporation proposes to wind up or dissolve, or where its registration is revoked, or any of its equity shares are purchased or otherwise acquired by the small business development corporation, the small business development corporation shall immediately pay to the Minister an amount of money calculated according to the following rules: Recovery of  
grant or tax  
credit

1. Where an equity share of the small business development corporation is purchased or otherwise acquired by it for a total consideration equal to or greater than that for which the share was issued, the small business development corporation shall pay to the Minister an amount of money equal to 30 per cent of the consideration paid to the corporation by the shareholder for the share at the time the share was issued.
2. Where an equity share of the small business development corporation is purchased or otherwise acquired by it for a total consideration that is less



than that for which the share was issued, the small business development corporation shall pay to the Minister an amount equal to 30 per cent of the gross consideration paid by the corporation for the purchase or acquisition of the share.

3. Where the registration of a small business development corporation is revoked or where the corporation proposes to wind up or dissolve, it shall pay to the Minister an amount of money equal to 30 per cent of the value of all of its shareholders' equity to an amount not exceeding the aggregate of the grants or tax credits made or allowed by the Minister in respect of all equity shares then issued and outstanding at the time of revocation, winding up or dissolution, calculated in the prescribed manner.

Idem

**25.** The amount to be paid to the Minister by the small business development corporation under section 24 shall be deemed to be a tax imposed upon the corporation under *The Corporations Tax Act, 1972* and may be collected and enforced in accordance with the provisions of that Act.

1972, c. 143

Share  
certificate

**26.** Every share certificate in respect of equity shares issued by a small business development corporation shall conspicuously state upon its face the words, "The value of the shares represented by this certificate may be significantly affected by recapture provisions under *The Small Business Development Corporations Act, 1979*".

1979, c. . . .

Demand for  
payment

**27.**—(1) Where any amount is payable to the Crown or is deemed to be payable to the Crown under this Act, the Minister may, by Notice of Demand in writing to the person or corporation by whom such payment is owing or claimed to be owing, demand payment immediately or in such number of days as are specified in the demand, and if the payment is not made as demanded, the Minister may recover and collect the amount thereof by any of the remedies or procedures provided for in this Act.

Liability for  
payment not  
affected

(2) Notwithstanding that an objection or other proceeding under section 28 has been commenced or may be commenced, every amount demanded to be paid pursuant to subsection 1 remains payable and recoverable until the demand therefor is revoked in writing by the Minister.

#### DISPUTES

Proposal by  
Minister

**28.**—(1) Where the Minister proposes,

- (a) to refuse to register a corporation under this Act ;
- (b) to revoke the registration of a small business development corporation ;
- (c) to refuse to make a grant under section 21 ; or
- (d) to refuse to allow a tax credit under section 22,

he shall serve notice of his proposal, together with written reasons therefor on the applicant or registrant.

(2) If the Minister has not registered a corporation under section 5 within four months of the date on which the corporation delivered a proposal under section 3, the Minister shall be deemed to have refused registration under clause a of subsection 1. Registration  
deemed  
refused

(3) Where a person or corporation objects to a proposal under subsection 1 that is served on them, they may, within sixty days from the day of mailing of the proposal or the date upon which the Minister has been deemed to have refused registration under subsection 2, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. Objection

(4) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. Service

(5) The Minister may accept a notice of objection under this section notwithstanding that it was not served in the manner required. Idem

(6) Where an applicant or registrant does not serve a notice of objection under subsection 3, the Minister may carry out the proposal stated in his notice under subsection 1. Action on  
proposal

(7) Upon receipt of the notice of objection, the Minister shall with all due dispatch reconsider the proposal objected to and confirm, vary or abandon the proposal, and he shall thereupon notify the person or corporation making the objection of his action by registered mail. Recon-  
sideration

(8) A decision of the Minister under subsection 7 is final and is not subject to appeal except where the decision involves the interpretation of a provision of this Act, or involves an issue solely of law. Where  
decision  
final

Determination  
of question

**29.** In any dispute over a decision or action of the Minister under subsection 7 of section 28, the Minister may, where the dispute involves the interpretation of a provision of this Act, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Supreme Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

#### OFFENCES

Offence

**30.**—(1) Every person or corporation that makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omission of which makes the statement false or misleading is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$20,000.

Exception

(2) No person or corporation is guilty of an offence under subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Application of  
1972, c. 143,  
ss. 161 to 166

**31.** Sections 161 to 166 of *The Corporations Tax Act, 1972* shall be deemed to apply to,

- (a) an application for a grant under section 21;
- (b) a claim for a tax credit under section 22; and
- (c) any books, records, accounts or returns required to be maintained or made by a small business development corporation,

and any reference in the sections of *The Corporations Tax Act, 1972* to a corporation shall be applied as though the sections also included a reference to persons.

False  
statements

**32.** In addition to any other remedy available under this Act, where any person or corporation obtains a grant or tax credit under this Act or the regulations, on the basis of

information that is false or misleading or an application that contains any false or misleading statement, the amount of such grant or tax credit together with interest thereon at the prescribed rate, shall be deemed to be a debt due to the Crown and may be recovered by an action in a court of competent jurisdiction.

**33.** Proceedings to enforce any provision of this Act or the regulations may be instituted within six years after the time the subject-matter of the proceedings arose. Limitation

**34.—(1)** The Lieutenant Governor in Council may make regulations, Regulations,  
by Lieutenant  
Governor in  
Council

- (a) requiring the payment of fees for any matter required to be done in the administration of this Act and prescribing the amounts thereof;
- (b) requiring any person to make information returns respecting any class of information required in assessing compliance with this Act;
- (c) prescribing the calculation of the amount of a grant or tax credit where equity shares are purchased by a shareholder as part of a distribution to the public;
- (d) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (e) prescribing the method of calculation of the consideration to be paid for each equity share under section 24 where a small business development corporation proposes to dissolve, or where its registration is revoked, or any of its equity shares are purchased or otherwise acquired by the small business development corporation;
- (f) prescribing any conditions that a corporation must meet prior to registration;
- (g) prescribing the method of determining the amount of equity capital of a small business development corporation;
- (h) prescribing authorized investments for the purposes of section 10;
- (i) prescribing the amount of money available at any time under this Act or available by way of grant or tax credit;

- (j) prescribing the method of calculation to be used in determining the percentage of wages and salaries paid in respect of operations in Ontario;
- (k) prescribing any matter required by this Act to be prescribed by the regulations.

by Minister

(2) The Minister may make regulations,

- (a) prescribing forms and providing for their use;
- (b) prescribing anything that by this Act is to be prescribed by the Minister;
- (c) delegating any of his duties or powers under this Act to any public servant.

may be  
retroactive

(3) A regulation is, if it so provides, effective with reference to a period before it was filed.

Moneys

**35.** The moneys required for the purposes of this Act shall, until the 31st day of March, 1980, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

1977, c. 10,  
repealed

**36.** *The Venture Investment Corporations Registration Act, 1977*, being chapter 10, is repealed.

Commence-  
ment

**37.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**38.** The short title of this Act is *The Small Business Development Corporations Act, 1979*.



# BILL 49

An Act respecting  
Small Business Development  
Corporations

*1st Reading*

April 10th, 1979

*2nd Reading*

*3rd Reading*

THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

*(Government Bill)*



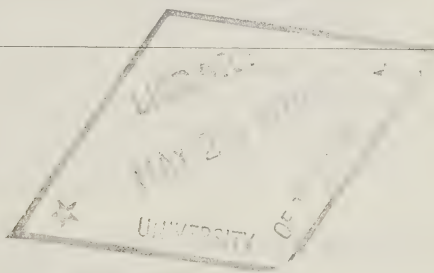
**BILL 49**

**Government Bill**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act respecting  
Small Business Development Corporations**

THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics



*(Reprinted as amended by the Committee of the Whole House)*

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTE

The purpose of the Bill is to encourage equity investment in Ontario-based small businesses. An incentive will be provided to investors who buy shares in small business development corporations (SBDCs) established for the purpose of directing the invested funds to qualifying businesses. The Bill provides for, among other things:

1. A system of registration for small business development corporations within the Ministry of Revenue.
2. A grant of 30 per cent of the investment in an SBDC to be paid to individuals who invest in equity shares of the SBDC and a 30 per cent credit against tax otherwise payable under *The Corporations Tax Act, 1972* for corporate investors.

3. Rules are set out detailing the types of investments that an SBDC may make. For example, while shares issued by a small business are eligible, where the issue is part of a transaction that includes the purchase or redemption of previously issued shares, the investment is eligible only to the extent it represents net new equity capital.

4. *The Venture Investment Corporations Registration Act, 1977* is repealed.

BILL 49

1979

## An Act respecting Small Business Development Corporations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-  
tation

- (a) “associate”, where used to indicate a relationship with any person, means,
  - (i) any corporation of which such person beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding,
  - (ii) any partner of that person or corporation,
  - (iii) any trust or estate in which such person or corporation has, in the opinion of the Minister, a substantial beneficial interest or as to which such person or corporation serves as trustee or in a similar capacity,
  - (iv) any spouse, parent, son or daughter, brother or sister of that person, or
  - (v) any relative of such person or of his spouse, other than a relative referred to in subclause iv, who has the same home as such person;
- (b) “corporation” means any body corporate whether or not it is a corporation to which *The Business Corporations Act* applies; R.S.O. 1970,  
c. 53
- (c) “debt obligation” means a mortgage, bond, debenture, note or other similar obligation of a corporation, whether secured or unsecured;

- (d) "eligible investment" means an investment in a small business that complies with section 9;
- (e) "equity capital" means the amount of consideration paid in money, calculated in the prescribed manner, for which equity shares are issued;
- (f) "equity share" means any share of any class of shares of a corporation carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing;
- (g) "Minister" means the Minister of Revenue or such other member of the Executive Council to whom the administration of this Act is assigned;
- (h) "Ministry" means the Ministry of the Minister;
- (i) "person" means, except as otherwise expressly provided, an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator or other legal representative;
- (j) "prescribed" means prescribed by the regulations;
- (k) "register" means the register under this Act;
- (l) "regulations" means the regulations made under this Act;
- (m) "security" means any share of any class of shares or any debt obligation of a corporation;
- (n) "small business" means a corporation having not more than the prescribed number of employees;
- (o) "small business development corporation" means a corporation registered under this Act.

Interpre-  
tation  
subsidiary  
corporation

(2) A corporation shall be deemed to be a subsidiary of another corporation if,

- (a) it is controlled by,
  - (i) that other, or
  - (ii) that other and one or more corporations each of which is controlled by that other, or

- (iii) two or more corporations each of which is controlled by that other; or
- (b) it is a subsidiary of a corporation that is that other's subsidiary.
- (3) A corporation shall be deemed to be another's <sup>holding</sup> holding corporation if that other is its subsidiary.
- (4) One corporation shall be deemed to be affiliated with <sup>affiliated</sup> another corporation if one of them is the subsidiary of the other or both are subsidiaries of the same corporation or each of them is controlled by the same person.
- (5) Unless otherwise prescribed, a corporation shall be <sup>Control</sup> deemed to be controlled by another person or corporation or by two or more corporations if,
- (a) shares of the first-mentioned corporation carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other corporations; and
- (b) the votes carried by such shares are sufficient if exercised to elect a majority of the board of directors of the first-mentioned corporation.
- (6) In calculating the total number of equity shares of a corporation beneficially owned or controlled, for the purposes of this Act, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes carried. <sup>Calculation of total number of equity shares</sup>
- (7) In determining the number of shareholders of a corporation, for the purposes of this Act, two or more persons holding the same share or shares jointly shall be counted as one shareholder. <sup>Number of shareholders</sup>
- (8) For the purpose of determining whether or not a corporation is a small business, there shall be taken into account the number of employees of any affiliated corporation. <sup>Determination of small business</sup>

#### REGISTER

- 2.—**(1) The Minister shall maintain a register of small <sup>Register</sup> business development corporations in which he shall list all

corporations registered under this Act and the register shall be open for public inspection during normal office hours.

Delegation  
by Minister

(2) The Minister may delegate in writing any of his duties or powers under this Act to any public servant.

#### REGISTRATION

Registration  
R.S.O. 1970,  
c. 53

**3.**—(1) A corporation incorporated under *The Business Corporations Act* may apply to be registered under this Act by delivering to the Minister a proposal in duplicate.

Contents of  
proposal

(2) A proposal shall set out:

1. The name of the corporation.
2. The location of the head office of the corporation in Ontario, including the street and number, if any.
3. The authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares in each class, and the aggregate consideration exceeding which all shares of each class may not be issued.
4. The issued capital of each class of shares, including the aggregate consideration therefor.
5. The amounts and kinds of debt obligations, if any, issued by the corporation.
6. The number of directors of the corporation and the names in full and the residence addresses of each, giving the street and number, if any.
7. The names in full of the officers of the corporation and the residence addresses of each, giving the street and number, if any.
8. Any other matter prescribed to be set out in the proposal.

Articles of  
incorporation

(3) A proposal shall be accompanied by a certified copy of the corporation's articles of incorporation.

Execution of  
proposal

(4) The proposal shall be executed under the seal of the corporation and signed by two officers or one director and one officer of the corporation and certified by affidavit of one of the officers or directors signing the proposal.

4. No corporation shall be registered under this Act Conditions of registration unless,

- (a) the corporation complies with all provisions of *The Business Corporations Act*; R.S.O. 1970, c. 53
- (b) the corporation has never previously carried on business;
- (c) its equity shares are without par value and may be issued for an aggregate consideration of not less than \$250,000 and not more than \$5,000,000;
- (d) the corporation has objects only to assist in the development of small businesses by,
  - (i) providing capital through the acquisition and holding of securities, and
  - (ii) providing business and managerial expertise to small businesses;
- (e) the corporation has equity capital of at least \$25,000; and
- (f) the corporation meets such other conditions as may be prescribed.

5.—(1) Subject to subsection 4, a corporation is entitled Registration to registration by the Minister except where,

- (a) the applicant fails to comply with section 3 or 4, as the case may be; or
- (b) the applicant fails to file the material required by this Act or the regulations.

(2) Subject to section 28, the Minister may refuse to register Refusal to register a corporation where in the Minister's opinion the applicant is disentitled to registration under subsection 1 of this section.

(3) Subject to section 28, the Minister may revoke a registration Revocation of registration where the registrant fails to comply with any provision of this Act or the regulations.

(4) Where the Minister is of the opinion that the number of corporations registered under this Act will be sufficient to take up the prescribed amount of money payable by way of grant under section 21 or foregone by way of tax credit under section 22, the Minister may, subject to the approval of Minister may suspend further registrations or incentives



the Lieutenant Governor in Council, by order, suspend the further registration of corporations, or the payment of grants and the allowance of tax credits under this Act for such period of time as is specified in the order.

Saving (5) No order under subsection 4 shall operate to prevent the Minister from making a grant where the shares were fully paid for and beneficially owned by the shareholder prior to the making of the order, or operate to prevent the carrying forward of a tax credit under section 23.

Registration **6.** If a corporation complies with sections 3 and 4, the Minister shall, when all prescribed fees have been paid,

(a) endorse on each duplicate of the proposal the word, "Registered" and the day, month and year of the registration thereof;

(b) file one of the duplicates in his office;

(c) place the name of the corporation in the register of small business development corporations; and

(d) issue to the registrants a certificate of registration to which he shall affix the other duplicate.

Minimum capital and investment **7.**—(1) Prior to the end of its first year of registration under this Act, a small business development corporation shall have equity capital of at least \$250,000 and at least 40 per cent of the amount of its equity capital shall be in eligible investments.

Idem (2) Prior to the end of its second year of registration under this Act, a small business development corporation shall have invested at least 70 per cent of its equity capital in eligible investments.

Idem (3) After the end of its second year of registration under this Act, a small business development corporation shall at all times maintain an average of at least 70 per cent, calculated in the prescribed manner, on the last day of each month of the immediately preceding twelve months, of its equity capital in eligible investments.

Capital limits (4) After the first year of its registration under this Act, a small business development corporation shall at all times maintain equity capital of at least \$250,000 but not exceeding \$5,000,000.

Trust fund **8.**—(1) A small business development corporation shall set aside in a trust fund an amount of money equal to 30 per

cent of all amounts received by it as equity capital and such trust fund shall be held by the corporation, or by a trustee on behalf of the corporation, in trust for the corporation and for the Crown jointly to be dealt with in accordance with this section.

(2) Subject to subsection 3, while any amount is held in trust under subsection 1, the Minister shall permit payment from the fund of an amount equal to three-sevenths of the purchase price paid by the small business development corporation to acquire any eligible investment, provided that the Minister is satisfied that the purchase price of such eligible investment has been paid in full in money or that the amount permitted to be paid out by the Minister will be used by the corporation in payment of the purchase price of the eligible investment. <sup>Payment out of fund</sup>

(3) The money held in trust in accordance with subsection 1 shall not be paid out to any person or corporation unless the Minister has consented in writing to such payment. <sup>Idem</sup>

(4) Interest earned on the trust fund established in accordance with subsection 1 shall be paid to the small business development corporation. <sup>Interest</sup>

(5) Where the registration of a small business development corporation is revoked, the amount then remaining in the trust fund established under subsection 1 is immediately payable to the Crown, and the receipt of the Minister therefor is a full and sufficient discharge to any trustee for such money or to any other person or corporation having control of the trust funds, for the payment over of such money to the Crown, and such payment is a full and complete discharge to the person or corporation making it and for any claim to such payment by any person or corporation that claims to be entitled to the funds. <sup>Payment out of fund</sup>

(6) Where any person or corporation fails to make the payment to the Crown required by subsection 5, such person or corporation is liable to the Crown for the amount that should have been paid pursuant to subsection 5. <sup>Idem</sup>

#### ELIGIBLE INVESTMENTS

9.—(1) An investment shall be an eligible investment if, <sup>Eligible investments</sup>

- (a) the investment is made in a small business and 75 per cent or more of the wages and salaries of the small business are paid in respect of operations in Ontario;



(b) the investment is made in a small business primarily engaged in,

- (i) prescribed manufacturing and processing, or
- (ii) prescribed tourist activities, or
- (iii) prescribed mineral exploration and development, or
- (iv) any other prescribed business activity;

(c) the investment is the purchase and acquisition from a small business by the small business development corporation of equity shares issued by the small business but, where the equity shares are issued as part of a transaction involving the purchase or redemption, directly or indirectly, of any previously issued equity shares of the small business or an affiliated corporation, the investment is an eligible investment only to the extent that the investment represents net new equity capital calculated in the manner prescribed;

(d) the investment is not used by the small business for the purpose of,

- (i) relending,
- (ii) investment in land except such land as is incidental and ancillary to the principal objects of the small business, or
- (iii) reinvestment outside Canada;

(e) the number of equity shares taken by the small business development corporation and any affiliated corporation in the small business in which the small business development corporation and the affiliated corporation invests does not at any time exceed 49 per cent, determined in accordance with subsection 2, of all issued and outstanding equity shares of such small business;

(f) the investment is made in a small business in which,

- (i) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction does not exceed 25 per cent of the total number of issued and outstanding equity shares of the corporation, or

(ii) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by a non-resident or over which he exercises control or direction, together with other shareholders associated with him, if any, does not exceed 10 per cent of the total number of issued and outstanding equity shares of the corporation; and

(g) the investment is made in a small business that is not of a type prescribed by regulation.

(2) In determining the percentage of issued and outstanding equity shares of a small business for the purposes of clause *e* of subsection 1, there shall be included, Manner of determining percentage of equity shares

- (a) the number of equity shares into which any debt obligation of such small business may be converted;
- (b) any option or right to purchase equity shares of such small business; and
- (c) any equity shares, convertible debt obligations and any options or rights of such small business beneficially owned or held by an associate or an affiliated corporation of the small business development corporation or any shareholder of it, or an associate or affiliated corporation of such shareholder.

**10.**—(1) A small business development corporation shall Investments maintain its assets in,

- (a) eligible investments;
- (b) liquid reserves;
- (c) equity shares that were eligible investments at the time they were acquired by such small business development corporation;
- (d) debt obligations of any small business that is an eligible investment; or
- (e) such other form as may be prescribed.

(2) Assets of the corporation maintained in liquid reserves Liquid reserves shall be deposited from time to time in any chartered bank to which the *Bank Act* (Canada) applies, or in any trust company or loan corporation that is registered under *The R.S.C. 1970, c. B-1* *Loan and Trust Corporations Act*, or with the Province of *R.S.O. 1970, c. 254* Ontario Savings Office or in such other investments as may

be prescribed, upon such terms and conditions and for such period as the corporation considers expedient.

Interpre-  
tation

**11.**—(1) In this section and in clause *f* of subsection 1 of section 9,

- (a) “corporation” includes an association, partnership or other organization;
- (b) “non-resident” means,
  - (i) an individual who is not a resident Canadian,
  - (ii) a corporation incorporated, formed or otherwise organized elsewhere than in Canada,
  - (iii) a corporation that is controlled directly or indirectly by non-residents as defined in subclause i or ii,
  - (iv) a trust in which non-residents as defined in subclause i, ii or iii have more than 50 per cent of the beneficial interest, or
  - (v) a corporation that is controlled directly or indirectly by a trust mentioned in subclause iv;
- (c) “resident” means an individual, corporation or trust that is not a non-resident.

Idem

(2) For the purpose of clause *f* of subsection 1 of section 9, a shareholder shall be deemed to be associated with another shareholder if,

- (a) one shareholder is a corporation of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a corporation that is controlled directly or indirectly by the other shareholder;
- (d) both shareholders are corporations and one shareholder is controlled directly or indirectly by the same individual or corporation that controls directly or indirectly the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or

- (f) both shareholders are associated within the meaning of clauses *a* to *e* with the same shareholder.

**12.**—(1) A small business development corporation shall not invest or maintain an investment in a small business if, Prohibited investments

(a) any of the shares of such small business are held by,

(i) a major shareholder or an affiliated corporation or an associate thereof of the small business development corporation,

(ii) an officer or director or an associate thereof of a small business development corporation or an officer or director or an associate thereof of a major shareholder of the small business development corporation, or

(iii) a voting trust where the trust relates to the shares of the small business development corporation; or

(b) such small business is a subsidiary, a holding corporation or affiliated corporation of the small business development corporation.

(2) Unless a small business development corporation is widely held, it shall not invest in a small business if the proceeds of that investment are used or are intended to be used, in whole or in part, to finance the purchase or sale of goods or services provided to such small business by or through any shareholder of the small business development corporation or any associate or affiliated corporation of such shareholder. Restriction on investment

(3) For the purposes of this section,

Interpretation

(a) “major shareholder” means a person who holds 10 per cent or more of the voting rights attached to all equity shares of the small business development corporation for the time being outstanding and

(b) a small business development corporation is widely held if the corporation has ten or more shareholders, each holding not more than 10 per cent of the issued and outstanding equity shares of the corporation and none of the shareholders are associates or affiliated corporations.

Material  
change

**13.**—(1) In this section, a material change occurs if the investment of a small business development corporation ceases to be an eligible investment.

Notification

(2) A small business development corporation shall notify the Minister in the prescribed form of any material change in any of its investments within thirty days of the occurrence thereof.

Eligible  
investment

(3) Where there is a material change, the investment by a small business development corporation shall remain an eligible investment, notwithstanding any other provision of this Act, for a period of two years from the date of the material change.

Restriction  
on disposition  
of equity  
shares

**14.**—(1) No equity shares and no option or right to acquire equity shares of a small business or of a corporation that has ceased to be a small business or an eligible investment shall be transferred or granted by a small business development corporation without first granting to all other holders of the equity shares of such small business or corporation the right to acquire the whole or any part of such equity shares, option or right upon the same terms and conditions.

Proviso

(2) Only a holder of equity shares that is not a small business development corporation may exercise the right to acquire equity shares, options or rights under subsection 1.

Application  
of  
R.S.O. 1970,  
c. 53

**15.** Notwithstanding the provisions of section 167 of *The Business Corporations Act*, every small business development corporation shall comply with the provisions of sections 168 and 169, subsections 1 to 4 of section 170, and section 171 and clause *c* of subsection 1 and subsection 3 of section 172 of that Act in each year.

Filing of  
financial  
statements

**16.** Within six months of the date to which it is made up, a small business development corporation shall file with the Minister its financial statements and the auditor's report thereon.

#### INFORMATION

Returns

**17.**—(1) Within ninety days after each anniversary of the date of its registration, every small business development corporation shall prepare, verify and file with the Minister, a return in the prescribed form setting out, as of its anniversary date, the information required by such return.

Notice to  
Minister

(2) A small business development corporation shall notify the Minister in the prescribed form, of any action involving,



- (a) the payment of any dividend on the equity shares of the corporation;
  - (b) the purchase, surrender, redemption or conversion of any equity share of the corporation;
  - (c) the disposition or sale of any eligible investment; or
  - (d) the winding up or dissolution of the corporation,
- at least twenty-one days prior to carrying out the proposed action.
- (3) The Minister may, in his discretion, enlarge the time for filing any notice or return under this section. Enlargement of time by Minister

**18.** The Minister may at any time by notice require any small business development corporation or any corporation in which the small business development corporation has invested to file within the time specified in the notice a return upon any subject connected with its affairs and, in the opinion of the Minister, relevant to the administration or enforcement of this Act. Information required by the Minister

#### INVESTMENT INCENTIVES

**19.** Where a small business development corporation is registered under this Act, the corporation is not liable for the tax imposed by Part III of *The Corporations Tax Act*, 1972, c. 143 Exemption from capital tax. 1972.

**20.—(1)** Subject to subsections 2 and 3 of this section and subsection 4 of section 5, where a person or a corporation complies with the provisions of this Act, the Minister may make a grant under section 21 or allow a tax credit under section 22. Incentives

(2) Unless a small business development corporation has established and maintained a trust as provided in section 8, the Minister shall not make a grant under section 21 or allow a tax credit under section 22 to any shareholder of that corporation. Idem

(3) Subject to section 28, where the Minister is of the opinion that the small business development corporation, its officers or directors, or its shareholders are conducting their business and affairs in a manner that is contrary to the spirit and intent of this Act or for the purpose of obtaining a grant or tax credit to which they would not otherwise be entitled, the Minister may, Revocation of registration or refusal of grant

- (a) revoke the registration of the small business development corporation; or
- (b) refuse to pay a grant under section 21 or allow a tax credit under section 22.

Saving

(4) Where a small business development corporation does not comply with the provisions of this Act or the regulations, but the Minister is of the opinion that the corporation is meeting the spirit and intent of this Act, the Minister may, for such time as in his opinion is appropriate, refrain from revoking the registration of any corporation.

Payment  
of grant

**21.**—(1) Subject to subsections 2 and 3, a person who is the beneficial and registered owner of equity shares of a small business development corporation may make an application in the form prescribed by the Minister for a grant and the Minister may pay a grant equal to 30 per cent of the amount of money actually paid by the applicant to the small business development corporation for equity shares issued to him by the corporation.

Idem

(2) No grant shall be paid by the Minister under subsection 1 unless,

(a) the equity shares are purchased or acquired directly from the corporation issuing the equity shares; and

(b) the applicant is ordinarily resident in Ontario.

Supporting  
material

(3) An application under subsection 1 shall be accompanied by,

(a) a certificate containing the prescribed information signed by the secretary and one authorized officer of the small business development corporation that has issued the equity shares in respect of which a grant is sought; and

(b) such additional material as may be prescribed by the Minister.

Interpre-  
tation

(4) In this section and in section 20, "person" means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator, or other legal representative that is ordinarily resident in Ontario, but does not include a partnership, association, syndicate, organization or trust that has a corporation as one of its members or beneficiaries.

**22.**—(1) Subject to subsection 2, a corporation that is the <sup>Tax credit</sup> beneficial and registered owner of equity shares of a small business development corporation may, subject to the approval of the Minister, deduct from the tax otherwise payable by it under Part II of *The Corporations Tax Act, 1972*, an amount <sup>1972, c. 143</sup> equal to 30 per cent of the amount of money actually paid by the corporation to the small business development corporation for equity shares issued to it by the corporation.

(2) Where a corporation claims a tax credit under sub-<sup>Supporting material</sup>section 1, the annual return required under section 145 of *The Corporations Tax Act, 1972*, in which the credit is claimed shall be accompanied by,

- (a) a certificate containing the prescribed information signed by the secretary and one authorized officer of the small business development corporation that has issued the equity shares in respect of which a tax credit is sought; and
- (b) such additional material as may be prescribed by the Minister.

**23.** The unused portion of a tax credit obtained under subsection 1 of section 22 may be carried forward<sup>Carry forward of tax credit</sup> by the corporation and deducted from the tax otherwise payable by the taxpayer under Part II of *The Corporations Tax Act, 1972* in subsequent taxation years.

**24.** Where a small business development corporation<sup>Recovery of grant or tax credit</sup> proposes to wind up or dissolve, or where its registration is revoked, or any of its equity shares are purchased or otherwise acquired by the small business development corporation, the small business development corporation shall immediately pay to the Minister an amount of money calculated according to the following rules:

1. Where an equity share of the small business development corporation is purchased or otherwise acquired by it for a total consideration equal to or greater than that for which the share was issued, the small business development corporation shall pay to the Minister an amount of money equal to 30 per cent of the consideration paid to the corporation by the shareholder for the share at the time the share was issued.
2. Where an equity share of the small business development corporation is purchased or otherwise acquired by it for a total consideration that is less



than that for which the share was issued, the small business development corporation shall pay to the Minister an amount equal to 30 per cent of the gross consideration paid by the corporation for the purchase or acquisition of the share.

3. Where the registration of a small business development corporation is revoked or where the corporation proposes to wind up or dissolve, it shall pay to the Minister an amount of money equal to 30 per cent of the value of all of its shareholders' equity to an amount not exceeding the aggregate of the grants or tax credits made or allowed by the Minister in respect of all equity shares then issued and outstanding at the time of revocation, winding up or dissolution, calculated in the prescribed manner.

Idem                    **25.** The amount to be paid to the Minister by the small business development corporation under section 24 shall be deemed to be a tax imposed upon the corporation under 1972, c. 143 *The Corporations Tax Act, 1972* and may be collected and enforced in accordance with the provisions of that Act.

Share certificate        **26.** Every share certificate in respect of equity shares issued by a small business development corporation shall conspicuously state upon its face the words, "The value of the shares represented by this certificate may be significantly affected by recapture provisions under *The Small Business Development Corporations Act, 1979*". 1979, c. 22

Demand for payment    **27.**—(1) Where any amount is payable to the Crown or is deemed to be payable to the Crown under this Act, the Minister may, by Notice of Demand in writing to the person or corporation by whom such payment is owing or claimed to be owing, demand payment immediately or in such number of days as are specified in the demand, and if the payment is not made as demanded, the Minister may recover and collect the amount thereof by any of the remedies or procedures provided for in this Act.

Liability for payment not affected    (2) Notwithstanding that an objection or other proceeding under section 28 has been commenced or may be commenced, every amount demanded to be paid pursuant to subsection 1 remains payable and recoverable until the demand therefor is revoked in writing by the Minister.

#### DISPUTES

Proposal by Minister        **28.**—(1) Where the Minister proposes,

- (a) to refuse to register a corporation under this Act;
- (b) to revoke the registration of a small business development corporation;
- (c) to refuse to make a grant under section 21; or
- (d) to refuse to allow a tax credit under section 22,

he shall serve notice of his proposal, together with written reasons therefor on the applicant or registrant.

(2) If the Minister has not registered a corporation under section 5 within four months of the date on which the corporation delivered a proposal under section 3, the Minister shall be deemed to have refused registration under clause *a* of subsection 1. Registration  
deemed  
refused

(3) Where a person or corporation objects to a proposal under subsection 1 that is served on them, they may, within sixty days from the day of mailing of the proposal or the date upon which the Minister has been deemed to have refused registration under subsection 2, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. Objection

(4) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. Service

(5) The Minister may accept a notice of objection under this section notwithstanding that it was not served in the manner required. Idem

(6) Where an applicant or registrant does not serve a notice of objection under subsection 3, the Minister may carry out the proposal stated in his notice under subsection 1. Action on  
proposal

(7) Upon receipt of the notice of objection, the Minister shall with all due dispatch reconsider the proposal objected to and confirm, vary or abandon the proposal, and he shall thereupon notify the person or corporation making the objection of his action by registered mail. Recon-  
sideration

(8) A decision of the Minister under subsection 7 is final and is not subject to appeal except where the decision involves the interpretation of a provision of this Act, or involves an issue solely of law. Where  
decision  
final

Determination  
of question

**29.** In any dispute over a decision or action of the Minister under subsection 7 of section 28, the Minister may, where the dispute involves the interpretation of a provision of this Act, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Supreme Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

#### OFFENCES

Offence

**30.**—(1) Every person or corporation that makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omission of which makes the statement false or misleading is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$20,000.

Exception

(2) No person or corporation is guilty of an offence under subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Application of  
1972, c. 143,  
ss. 161 to 166

**31.** Sections 161 to 166 of *The Corporations Tax Act, 1972* shall be deemed to apply to,

- (a) an application for a grant under section 21;
- (b) a claim for a tax credit under section 22; and
- (c) any books, records, accounts or returns required to be maintained or made by a small business development corporation,

and any reference in the sections of *The Corporations Tax Act, 1972* to a corporation shall be applied as though the sections also included a reference to persons.

False  
statements

**32.** In addition to any other remedy available under this Act, where any person or corporation obtains a grant or tax credit under this Act or the regulations, on the basis of

information that is false or misleading or an application that contains any false or misleading statement, the amount of such grant or tax credit together with interest thereon at the prescribed rate, shall be deemed to be a debt due to the Crown and may be recovered by an action in a court of competent jurisdiction.

**33.** Proceedings to enforce any provision of this Act or <sup>Limitation</sup> the regulations may be instituted within six years after the time the subject-matter of the proceedings arose.

**34.**—(1) The Lieutenant Governor in Council may make <sup>Regulations, by Lieutenant Governor in Council</sup> regulations,

- (a) requiring the payment of fees for any matter required to be done in the administration of this Act and prescribing the amounts thereof;
- (b) requiring any person to make information returns respecting any class of information required in assessing compliance with this Act;
- (c) prescribing the calculation of the amount of a grant or tax credit where equity shares are purchased by a shareholder as part of a distribution to the public;
- (d) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (e) prescribing the method of calculation of the consideration to be paid for each equity share under section 24 where a small business development corporation proposes to dissolve, or where its registration is revoked, or any of its equity shares are purchased or otherwise acquired by the small business development corporation;
- (f) prescribing any conditions that a corporation must meet prior to registration;
- (g) prescribing the method of determining the amount of equity capital of a small business development corporation;
- (h) prescribing authorized investments for the purposes of section 10;
- (i) prescribing the amount of money available at any time under this Act or available by way of grant or tax credit;

(j) prescribing the method of calculation to be used in determining the percentage of wages and salaries paid in respect of operations in Ontario;

(k) prescribing any matter required by this Act to be prescribed by the regulations.

by Minister

(2) The Minister may make regulations,

(a) prescribing forms and providing for their use;

(b) prescribing anything that by this Act is to be prescribed by the Minister;

(c) delegating any of his duties or powers under this Act to any public servant.

may be  
retroactive

(3) A regulation is, if it so provides, effective with reference to a period before it was filed.

Moneys

**35.** The moneys required for the purposes of this Act shall, until the 31st day of March, 1980, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

1977, c. 10,  
repealed

**36.** *The Venture Investment Corporations Registration Act, 1977*, being chapter 10, is repealed.

Commence-  
ment

**37.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**38.** The short title of this Act is *The Small Business Development Corporations Act, 1979*.





---

An Act respecting  
Small Business Development  
Corporations

---

*1st Reading*

April 10th, 1979

*2nd Reading*

May 15th, 1979

*3rd Reading*

---

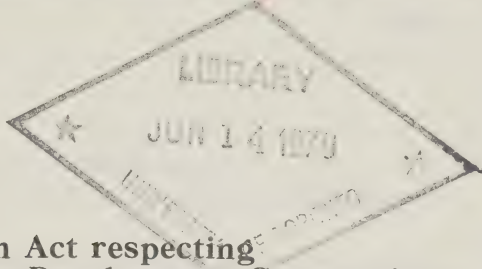
THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

---

*(Reprinted as amended by the  
Committee of the Whole House)*

**BILL 49**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979



**An Act respecting  
Small Business Development Corporations**

THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO





BILL 49

1979

## An Act respecting Small Business Development Corporations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-  
tation

(a) “associate”, where used to indicate a relationship with any person, means,

(i) any corporation of which such person beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding,

(ii) any partner of that person or corporation,

(iii) any trust or estate in which such person or corporation has, in the opinion of the Minister, a substantial beneficial interest or as to which such person or corporation serves as trustee or in a similar capacity,

(iv) any spouse, parent, son or daughter, brother or sister of that person, or

(v) any relative of such person or of his spouse, other than a relative referred to in subclause iv, who has the same home as such person;

(b) “corporation” means any body corporate whether or not it is a corporation to which *The Business Corporations Act* applies; R.S.O. 1970,  
c. 53

(c) “debt obligation” means a mortgage, bond, debenture, note or other similar obligation of a corporation, whether secured or unsecured;

- (d) "eligible investment" means an investment in a small business that complies with section 9;
- (e) "equity capital" means the amount of consideration paid in money, calculated in the prescribed manner, for which equity shares are issued;
- (f) "equity share" means any share of any class of shares of a corporation carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing;
- (g) "Minister" means the Minister of Revenue or such other member of the Executive Council to whom the administration of this Act is assigned;
- (h) "Ministry" means the Ministry of the Minister;
- (i) "person" means, except as otherwise expressly provided, an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator or other legal representative;
- (j) "prescribed" means prescribed by the regulations;
- (k) "register" means the register under this Act;
- (l) "regulations" means the regulations made under this Act;
- (m) "security" means any share of any class of shares or any debt obligation of a corporation;
- (n) "small business" means a corporation having not more than the prescribed number of employees;
- (o) "small business development corporation" means a corporation registered under this Act.

Interpre-  
tation  
subsidiary  
corporation

(2) A corporation shall be deemed to be a subsidiary of another corporation if,

- (a) it is controlled by,
  - (i) that other, or
  - (ii) that other and one or more corporations each of which is controlled by that other, or

- (iii) two or more corporations each of which is controlled by that other; or
- (b) it is a subsidiary of a corporation that is that other's subsidiary.
- (3) A corporation shall be deemed to be another's <sup>holding corporation</sup> holding corporation if that other is its subsidiary.
- (4) One corporation shall be deemed to be affiliated with <sup>affiliated corporation</sup> another corporation if one of them is the subsidiary of the other or both are subsidiaries of the same corporation or each of them is controlled by the same person.
- (5) Unless otherwise prescribed, a corporation shall be <sup>Control</sup> deemed to be controlled by another person or corporation or by two or more corporations if,
  - (a) shares of the first-mentioned corporation carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other corporations; and
  - (b) the votes carried by such shares are sufficient if exercised to elect a majority of the board of directors of the first-mentioned corporation.
- (6) In calculating the total number of equity shares of a <sup>Calculation of total number of equity shares</sup> corporation beneficially owned or controlled, for the purposes of this Act, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes carried.
- (7) In determining the number of shareholders of a cor- <sup>Number of shareholders</sup> poration, for the purposes of this Act, two or more persons holding the same share or shares jointly shall be counted as one shareholder.
- (8) For the purpose of determining whether or not a cor- <sup>Deter- mination of small business</sup> poration is a small business, there shall be taken into account the number of employees of any affiliated corporation.

#### REGISTER

**2.—**(1) The Minister shall maintain a register of small <sup>Register</sup> business development corporations in which he shall list all

corporations registered under this Act and the register shall be open for public inspection during normal office hours.

Delegation  
by Minister

(2) The Minister may delegate in writing any of his duties or powers under this Act to any public servant.

#### REGISTRATION

Registration  
R.S.O. 1970,  
c. 53

**3.**—(1) A corporation incorporated under *The Business Corporations Act* may apply to be registered under this Act by delivering to the Minister a proposal in duplicate.

Contents of  
proposal

(2) A proposal shall set out:

1. The name of the corporation.
2. The location of the head office of the corporation in Ontario, including the street and number, if any.
3. The authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares in each class, and the aggregate consideration exceeding which all shares of each class may not be issued.
4. The issued capital of each class of shares, including the aggregate consideration therefor.
5. The amounts and kinds of debt obligations, if any, issued by the corporation.
6. The number of directors of the corporation and the names in full and the residence addresses of each, giving the street and number, if any.
7. The names in full of the officers of the corporation and the residence addresses of each, giving the street and number, if any.
8. Any other matter prescribed to be set out in the proposal.

Articles of  
incorporation

(3) A proposal shall be accompanied by a certified copy of the corporation's articles of incorporation.

Execution of  
proposal

(4) The proposal shall be executed under the seal of the corporation and signed by two officers or one director and one officer of the corporation and certified by affidavit of one of the officers or directors signing the proposal.

4. No corporation shall be registered under this Act unless, Conditions of registration

- (a) the corporation complies with all provisions of *The Business Corporations Act*; R.S.O. 1970, c. 53
- (b) the corporation has never previously carried on business;
- (c) its equity shares are without par value and may be issued for an aggregate consideration of not less than \$250,000 and not more than \$5,000,000;
- (d) the corporation has objects only to assist in the development of small businesses by,
  - (i) providing capital through the acquisition and holding of securities, and
  - (ii) providing business and managerial expertise to small businesses;
- (e) the corporation has equity capital of at least \$25,000; and
- (f) the corporation meets such other conditions as may be prescribed.

5.—(1) Subject to subsection 4, a corporation is entitled to registration by the Minister except where, Registration

- (a) the applicant fails to comply with section 3 or 4, as the case may be; or
- (b) the applicant fails to file the material required by this Act or the regulations.

(2) Subject to section 28, the Minister may refuse to register a corporation where in the Minister's opinion the applicant is disentitled to registration under subsection 1 of this section. Refusal to register

(3) Subject to section 28, the Minister may revoke a registration where the registrant fails to comply with any provision of this Act or the regulations. Revocation of registration

(4) Where the Minister is of the opinion that the number of corporations registered under this Act will be sufficient to take up the prescribed amount of money payable by way of grant under section 21 or foregone by way of tax credit under section 22, the Minister may, subject to the approval of Minister may suspend further registrations or incentives



the Lieutenant Governor in Council, by order, suspend the further registration of corporations, or the payment of grants and the allowance of tax credits under this Act for such period of time as is specified in the order.

Saving

(5) No order under subsection 4 shall operate to prevent the Minister from making a grant where the shares were fully paid for and beneficially owned by the shareholder prior to the making of the order, or operate to prevent the carrying forward of a tax credit under section 23.

Registration

**6.** If a corporation complies with sections 3 and 4, the Minister shall, when all prescribed fees have been paid,

- (a) endorse on each duplicate of the proposal the word, "Registered" and the day, month and year of the registration thereof;
- (b) file one of the duplicates in his office;
- (c) place the name of the corporation in the register of small business development corporations; and
- (d) issue to the registrants a certificate of registration to which he shall affix the other duplicate.

Minimum  
capital and  
investment

**7.—(1)** Prior to the end of its first year of registration under this Act, a small business development corporation shall have equity capital of at least \$250,000 and at least 40 per cent of the amount of its equity capital shall be in eligible investments.

Idem

(2) Prior to the end of its second year of registration under this Act, a small business development corporation shall have invested at least 70 per cent of its equity capital in eligible investments.

Idem

(3) After the end of its second year of registration under this Act, a small business development corporation shall at all times maintain an average of at least 70 per cent, calculated in the prescribed manner, on the last day of each month of the immediately preceding twelve months, of its equity capital in eligible investments.

Capital  
limits

(4) After the first year of its registration under this Act, a small business development corporation shall at all times maintain equity capital of at least \$250,000 but not exceeding \$5,000,000.

Trust  
fund

**8.—(1)** A small business development corporation shall set aside in a trust fund an amount of money equal to 30 per

cent of all amounts received by it as equity capital and such trust fund shall be held by the corporation, or by a trustee on behalf of the corporation, in trust for the corporation and for the Crown jointly to be dealt with in accordance with this section.

(2) Subject to subsection 3, while any amount is held in trust under subsection 1, the Minister shall permit payment from the fund of an amount equal to three-sevenths of the purchase price paid by the small business development corporation to acquire any eligible investment, provided that the Minister is satisfied that the purchase price of such eligible investment has been paid in full in money or that the amount permitted to be paid out by the Minister will be used by the corporation in payment of the purchase price of the eligible investment. <sup>Payment out of fund</sup>

(3) The money held in trust in accordance with subsection 1 shall not be paid out to any person or corporation unless the Minister has consented in writing to such payment. <sup>Idem</sup>

(4) Interest earned on the trust fund established in accordance with subsection 1 shall be paid to the small business development corporation. <sup>Interest</sup>

(5) Where the registration of a small business development corporation is revoked, the amount then remaining in the trust fund established under subsection 1 is immediately payable to the Crown, and the receipt of the Minister therefor is a full and sufficient discharge to any trustee for such money or to any other person or corporation having control of the trust funds, for the payment over of such money to the Crown, and such payment is a full and complete discharge to the person or corporation making it and for any claim to such payment by any person or corporation that claims to be entitled to the funds. <sup>Payment out of fund</sup>

(6) Where any person or corporation fails to make the payment to the Crown required by subsection 5, such person or corporation is liable to the Crown for the amount that should have been paid pursuant to subsection 5. <sup>Idem</sup>

#### ELIGIBLE INVESTMENTS

9.—(1) An investment shall be an eligible investment if, <sup>Eligible investments</sup>

- (a) the investment is made in a small business and 75 per cent or more of the wages and salaries of the small business are paid in respect of operations in Ontario;



- (b) the investment is made in a small business primarily engaged in,
  - (i) prescribed manufacturing and processing, or
  - (ii) prescribed tourist activities, or
  - (iii) prescribed mineral exploration and development, or
  - (iv) any other prescribed business activity;
- (c) the investment is the purchase and acquisition from a small business by the small business development corporation of equity shares issued by the small business but, where the equity shares are issued as part of a transaction involving the purchase or redemption, directly or indirectly, of any previously issued equity shares of the small business or an affiliated corporation, the investment is an eligible investment only to the extent that the investment represents net new equity capital calculated in the manner prescribed;
- (d) the investment is not used by the small business for the purpose of,
  - (i) relending,
  - (ii) investment in land except such land as is incidental and ancillary to the principal objects of the small business, or
  - (iii) reinvestment outside Canada;
- (e) the number of equity shares taken by the small business development corporation and any affiliated corporation in the small business in which the small business development corporation and the affiliated corporation invests does not at any time exceed 49 per cent, determined in accordance with subsection 2, of all issued and outstanding equity shares of such small business;
- (f) the investment is made in a small business in which,
  - (i) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction does not exceed 25 per cent of the total number of issued and outstanding equity shares of the corporation, or

- (ii) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by a non-resident or over which he exercises control or direction, together with other shareholders associated with him, if any, does not exceed 10 per cent of the total number of issued and outstanding equity shares of the corporation; and

- (g) the investment is made in a small business that is not of a type prescribed by regulation.

(2) In determining the percentage of issued and outstanding equity shares of a small business for the purposes of clause *e* of subsection 1, there shall be included, Manner of determining percentage of equity shares

- (a) the number of equity shares into which any debt obligation of such small business may be converted;
- (b) any option or right to purchase equity shares of such small business; and
- (c) any equity shares, convertible debt obligations and any options or rights of such small business beneficially owned or held by an associate or an affiliated corporation of the small business development corporation or any shareholder of it, or an associate or affiliated corporation of such shareholder.

**10.—(1)** A small business development corporation shall Investments maintain its assets in,

- (a) eligible investments;
- (b) liquid reserves;
- (c) equity shares that were eligible investments at the time they were acquired by such small business development corporation;
- (d) debt obligations of any small business that is an eligible investment; or
- (e) such other form as may be prescribed.

(2) Assets of the corporation maintained in liquid reserves Liquid reserves shall be deposited from time to time in any chartered bank to which the *Bank Act* (Canada) applies, or in any trust company or loan corporation that is registered under *The Loan and Trust Corporations Act*, or with the Province of Ontario Savings Office or in such other investments as may R.S.C. 1970, c. B-1  
R.S.O. 1970, c. 254

be prescribed, upon such terms and conditions and for such period as the corporation considers expedient.

Interpre-  
tation

**11.—**(1) In this section and in clause *f* of subsection 1 of section 9,

- (a) “corporation” includes an association, partnership or other organization;
- (b) “non-resident” means,
  - (i) an individual who is not a resident Canadian,
  - (ii) a corporation incorporated, formed or otherwise organized elsewhere than in Canada,
  - (iii) a corporation that is controlled directly or indirectly by non-residents as defined in subclause i or ii,
  - (iv) a trust in which non-residents as defined in subclause i, ii or iii have more than 50 per cent of the beneficial interest, or
  - (v) a corporation that is controlled directly or indirectly by a trust mentioned in subclause iv;
- (c) “resident” means an individual, corporation or trust that is not a non-resident.

Idem

(2) For the purpose of clause *f* of subsection 1 of section 9, a shareholder shall be deemed to be associated with another shareholder if,

- (a) one shareholder is a corporation of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a corporation that is controlled directly or indirectly by the other shareholder;
- (d) both shareholders are corporations and one shareholder is controlled directly or indirectly by the same individual or corporation that controls directly or indirectly the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or

- (f) both shareholders are associated within the meaning of clauses *a* to *e* with the same shareholder.

**12.—**(1) A small business development corporation shall not invest or maintain an investment in a small business if, <sup>Prohibited investments</sup>

(a) any of the shares of such small business are held by,

(i) a major shareholder or an affiliated corporation or an associate thereof of the small business development corporation,

(ii) an officer or director or an associate thereof of a small business development corporation or an officer or director or an associate thereof of a major shareholder of the small business development corporation, or

(iii) a voting trust where the trust relates to the shares of the small business development corporation; or

(b) such small business is a subsidiary, a holding corporation or affiliated corporation of the small business development corporation.

(2) Unless a small business development corporation is widely held, it shall not invest in a small business if the proceeds of that investment are used or are intended to be used, in whole or in part, to finance the purchase or sale of goods or services provided to such small business by or through any shareholder of the small business development corporation or any associate or affiliated corporation of such shareholder. <sup>Restriction on investment</sup>

(3) For the purposes of this section,

<sup>Interpretation</sup>

(a) “major shareholder” means a person who holds 10 per cent or more of the voting rights attached to all equity shares of the small business development corporation for the time being outstanding; and

(b) a small business development corporation is widely held if the corporation has ten or more shareholders, each holding not more than 10 per cent of the issued and outstanding equity shares of the corporation and none of the shareholders are associates or affiliated corporations.

Material  
change

**13.**—(1) In this section, a material change occurs if the investment of a small business development corporation ceases to be an eligible investment.

Notification

(2) A small business development corporation shall notify the Minister in the prescribed form of any material change in any of its investments within thirty days of the occurrence thereof.

Eligible  
investment

(3) Where there is a material change, the investment by a small business development corporation shall remain an eligible investment, notwithstanding any other provision of this Act, for a period of two years from the date of the material change.

Restriction  
on disposition  
of equity  
shares

**14.**—(1) No equity shares and no option or right to acquire equity shares of a small business or of a corporation that has ceased to be a small business or an eligible investment shall be transferred or granted by a small business development corporation without first granting to all other holders of the equity shares of such small business or corporation the right to acquire the whole or any part of such equity shares, option or right upon the same terms and conditions.

Proviso

(2) Only a holder of equity shares that is not a small business development corporation may exercise the right to acquire equity shares, options or rights under subsection 1.

Application  
of  
R.S.O. 1970,  
c. 53

**15.** Notwithstanding the provisions of section 167 of *The Business Corporations Act*, every small business development corporation shall comply with the provisions of sections 168 and 169, subsections 1 to 4 of section 170, and section 171 and clause *c* of subsection 1 and subsection 3 of section 172 of that Act in each year.

Filing of  
financial  
statements

**16.** Within six months of the date to which it is made up, a small business development corporation shall file with the Minister its financial statements and the auditor's report thereon.

#### INFORMATION

Returns

**17.**—(1) Within ninety days after each anniversary of the date of its registration, every small business development corporation shall prepare, verify and file with the Minister, a return in the prescribed form setting out, as of its anniversary date, the information required by such return.

Notice to  
Minister

(2) A small business development corporation shall notify the Minister in the prescribed form, of any action involving,



- (a) the payment of any dividend on the equity shares of the corporation;
- (b) the purchase, surrender, redemption or conversion of any equity share of the corporation;
- (c) the disposition or sale of any eligible investment; or
- (d) the winding up or dissolution of the corporation,

at least twenty-one days prior to carrying out the proposed action.

(3) The Minister may, in his discretion, enlarge the time for filing any notice or return under this section. Enlargement of time by Minister

**18.** The Minister may at any time by notice require any small business development corporation or any corporation in which the small business development corporation has invested to file within the time specified in the notice a return upon any subject connected with its affairs and, in the opinion of the Minister, relevant to the administration or enforcement of this Act. Information required by the Minister

#### INVESTMENT INCENTIVES

**19.** Where a small business development corporation is registered under this Act, the corporation is not liable for the tax imposed by Part III of *The Corporations Tax Act*, 1972, c. 143 Exemption from capital tax 1972, c. 143

**20.**—(1) Subject to subsections 2 and 3 of this section and subsection 4 of section 5, where a person or a corporation complies with the provisions of this Act, the Minister may make a grant under section 21 or allow a tax credit under section 22. Incentives

(2) Unless a small business development corporation has established and maintained a trust as provided in section 8, the Minister shall not make a grant under section 21 or allow a tax credit under section 22 to any shareholder of that corporation. Idem

(3) Subject to section 28, where the Minister is of the opinion that the small business development corporation, its officers or directors, or its shareholders are conducting their business and affairs in a manner that is contrary to the spirit and intent of this Act or for the purpose of obtaining a grant or tax credit to which they would not otherwise be entitled, the Minister may, Revocation of registration or refusal of grant

- (a) revoke the registration of the small business development corporation; or
- (b) refuse to pay a grant under section 21 or allow a tax credit under section 22.

Saving

(4) Where a small business development corporation does not comply with the provisions of this Act or the regulations, but the Minister is of the opinion that the corporation is meeting the spirit and intent of this Act, the Minister may, for such time as in his opinion is appropriate, refrain from revoking the registration of any corporation.

Payment  
of grant

**21.**—(1) Subject to subsections 2 and 3, a person who is the beneficial and registered owner of equity shares of a small business development corporation may make an application in the form prescribed by the Minister for a grant and the Minister may pay a grant equal to 30 per cent of the amount of money actually paid by the applicant to the small business development corporation for equity shares issued to him by the corporation.

Idem

(2) No grant shall be paid by the Minister under subsection 1 unless,

- (a) the equity shares are purchased or acquired directly from the corporation issuing the equity shares; and
- (b) the applicant is ordinarily resident in Ontario.

Supporting  
material

(3) An application under subsection 1 shall be accompanied by,

- (a) a certificate containing the prescribed information signed by the secretary and one authorized officer of the small business development corporation that has issued the equity shares in respect of which a grant is sought; and
- (b) such additional material as may be prescribed by the Minister.

Interpre-  
tation

(4) In this section and in section 20, “person” means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator, or other legal representative that is ordinarily resident in Ontario, but does not include a partnership, association, syndicate, organization or trust that has a corporation as one of its members or beneficiaries.

**22.**—(1) Subject to subsection 2, a corporation that is the beneficial and registered owner of equity shares of a small business development corporation may, subject to the approval of the Minister, deduct from the tax otherwise payable by it under Part II of *The Corporations Tax Act, 1972*, an amount equal to 30 per cent of the amount of money actually paid by the corporation to the small business development corporation for equity shares issued to it by the corporation. Tax credit  
1972, c. 143

(2) Where a corporation claims a tax credit under subsection 1, the annual return required under section 145 of *The Corporations Tax Act, 1972*, in which the credit is claimed shall be accompanied by, Supporting material

(a) a certificate containing the prescribed information signed by the secretary and one authorized officer of the small business development corporation that has issued the equity shares in respect of which a tax credit is sought; and

(b) such additional material as may be prescribed by the Minister.

**23.** The unused portion of a tax credit obtained under subsection 1 of section 22 may be carried forward by the corporation and deducted from the tax otherwise payable by the taxpayer under Part II of *The Corporations Tax Act, 1972* in subsequent taxation years. Carry forward  
of tax credit

**24.** Where a small business development corporation proposes to wind up or dissolve, or where its registration is revoked, or any of its equity shares are purchased or otherwise acquired by the small business development corporation, the small business development corporation shall immediately pay to the Minister an amount of money calculated according to the following rules: Recovery of  
grant or tax  
credit

1. Where an equity share of the small business development corporation is purchased or otherwise acquired by it for a total consideration equal to or greater than that for which the share was issued, the small business development corporation shall pay to the Minister an amount of money equal to 30 per cent of the consideration paid to the corporation by the shareholder for the share at the time the share was issued.
2. Where an equity share of the small business development corporation is purchased or otherwise acquired by it for a total consideration that is less



than that for which the share was issued, the small business development corporation shall pay to the Minister an amount equal to 30 per cent of the gross consideration paid by the corporation for the purchase or acquisition of the share.

3. Where the registration of a small business development corporation is revoked or where the corporation proposes to wind up or dissolve, it shall pay to the Minister an amount of money equal to 30 per cent of the value of all of its shareholders' equity to an amount not exceeding the aggregate of the grants or tax credits made or allowed by the Minister in respect of all equity shares then issued and outstanding at the time of revocation, winding up or dissolution, calculated in the prescribed manner.

Idem

**25.** The amount to be paid to the Minister by the small business development corporation under section 24 shall be deemed to be a tax imposed upon the corporation under *The Corporations Tax Act, 1972* and may be collected and enforced in accordance with the provisions of that Act.

1972, c. 143

Share  
certificate

**26.** Every share certificate in respect of equity shares issued by a small business development corporation shall conspicuously state upon its face the words, "The value of the shares represented by this certificate may be significantly affected by recapture provisions under *The Small Business Development Corporations Act, 1979*".

1979, c. 22

Demand for  
payment

**27.—(1)** Where any amount is payable to the Crown or is deemed to be payable to the Crown under this Act, the Minister may, by Notice of Demand in writing to the person or corporation by whom such payment is owing or claimed to be owing, demand payment immediately or in such number of days as are specified in the demand, and if the payment is not made as demanded, the Minister may recover and collect the amount thereof by any of the remedies or procedures provided for in this Act.

Liability for  
payment not  
affected

**(2)** Notwithstanding that an objection or other proceeding under section 28 has been commenced or may be commenced, every amount demanded to be paid pursuant to subsection 1 remains payable and recoverable until the demand therefor is revoked in writing by the Minister.

#### DISPUTES

Proposal by  
Minister

**28.—(1)** Where the Minister proposes,

- (a) to refuse to register a corporation under this Act;
- (b) to revoke the registration of a small business development corporation;
- (c) to refuse to make a grant under section 21; or
- (d) to refuse to allow a tax credit under section 22,

he shall serve notice of his proposal, together with written reasons therefor on the applicant or registrant.

(2) If the Minister has not registered a corporation under section 5 within four months of the date on which the corporation delivered a proposal under section 3, the Minister shall be deemed to have refused registration under clause *a* of subsection 1. Registration  
deemed  
refused

(3) Where a person or corporation objects to a proposal under subsection 1 that is served on them, they may, within sixty days from the day of mailing of the proposal or the date upon which the Minister has been deemed to have refused registration under subsection 2, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. Objection

(4) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. Service

(5) The Minister may accept a notice of objection under this section notwithstanding that it was not served in the manner required. Idem

(6) Where an applicant or registrant does not serve a notice of objection under subsection 3, the Minister may carry out the proposal stated in his notice under subsection 1. Action on  
proposal

(7) Upon receipt of the notice of objection, the Minister shall with all due dispatch reconsider the proposal objected to and confirm, vary or abandon the proposal, and he shall thereupon notify the person or corporation making the objection of his action by registered mail. Recon-  
sideration

(8) A decision of the Minister under subsection 7 is final and is not subject to appeal except where the decision involves the interpretation of a provision of this Act, or involves an issue solely of law. Where  
decision  
final

Determination  
of question

**29.** In any dispute over a decision or action of the Minister under subsection 7 of section 28, the Minister may, where the dispute involves the interpretation of a provision of this Act, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Supreme Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

#### OFFENCES

Offence

**30.**—(1) Every person or corporation that makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omission of which makes the statement false or misleading is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$20,000.

Exception

(2) No person or corporation is guilty of an offence under subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Application of  
1972, c. 143,  
ss. 161 to 166

**31.** Sections 161 to 166 of *The Corporations Tax Act, 1972* shall be deemed to apply to,

- (a) an application for a grant under section 21;
- (b) a claim for a tax credit under section 22; and
- (c) any books, records, accounts or returns required to be maintained or made by a small business development corporation,

and any reference in the sections of *The Corporations Tax Act, 1972* to a corporation shall be applied as though the sections also included a reference to persons.

False  
statements

**32.** In addition to any other remedy available under this Act, where any person or corporation obtains a grant or tax credit under this Act or the regulations, on the basis of

information that is false or misleading or an application that contains any false or misleading statement, the amount of such grant or tax credit together with interest thereon at the prescribed rate, shall be deemed to be a debt due to the Crown and may be recovered by an action in a court of competent jurisdiction.

**33.** Proceedings to enforce any provision of this Act or the regulations may be instituted within six years after the time the subject-matter of the proceedings arose. Limitation

**34.—(1)** The Lieutenant Governor in Council may make regulations, Regulations,  
by Lieutenant  
Governor in  
Council

- (a) requiring the payment of fees for any matter required to be done in the administration of this Act and prescribing the amounts thereof;
- (b) requiring any person to make information returns respecting any class of information required in assessing compliance with this Act;
- (c) prescribing the calculation of the amount of a grant or tax credit where equity shares are purchased by a shareholder as part of a distribution to the public;
- (d) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (e) prescribing the method of calculation of the consideration to be paid for each equity share under section 24 where a small business development corporation proposes to dissolve, or where its registration is revoked, or any of its equity shares are purchased or otherwise acquired by the small business development corporation;
- (f) prescribing any conditions that a corporation must meet prior to registration;
- (g) prescribing the method of determining the amount of equity capital of a small business development corporation;
- (h) prescribing authorized investments for the purposes of section 10;
- (i) prescribing the amount of money available at any time under this Act or available by way of grant or tax credit;

(j) prescribing the method of calculation to be used in determining the percentage of wages and salaries paid in respect of operations in Ontario;

(k) prescribing any matter required by this Act to be prescribed by the regulations.

by Minister

(2) The Minister may make regulations,

(a) prescribing forms and providing for their use;

(b) prescribing anything that by this Act is to be prescribed by the Minister;

(c) delegating any of his duties or powers under this Act to any public servant.

may be  
retroactive

(3) A regulation is, if it so provides, effective with reference to a period before it was filed.

Moneys

**35.** The moneys required for the purposes of this Act shall, until the 31st day of March, 1980, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

1977, c. 10,  
repealed

**36.** *The Venture Investment Corporations Registration Act, 1977*, being chapter 10, is repealed.

Commence-  
ment

**37.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**38.** The short title of this Act is *The Small Business Development Corporations Act, 1979*.





---

# BILL 49

---

An Act respecting  
Small Business Development  
Corporations

---

*1st Reading*

April 10th, 1979

*2nd Reading*

May 15th, 1979

*3rd Reading*

May 17th, 1979

---

THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

---

**BILL 50**

3RD SESSION, 31ST LEGISLATURE, ONTARIO  
28 ELIZABETH II, 1979

**An Act to authorize  
the Raising of Money on the Credit of  
the Consolidated Revenue Fund**

THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO





BILL 50

1979

**An Act to authorize  
the Raising of Money on the Credit of  
the Consolidated Revenue Fund**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.**—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by *The Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$1,600,000,000.

Loans up to  
\$1,600,000,000  
R.S.O. 1970,  
c. 166

(2) The sum of money authorized to be raised by subsection 1 for the purposes mentioned therein shall include the principal amounts of Province of Ontario debentures issued to the Teachers' Superannuation Fund under authority of *The Teachers' Superannuation Act* and to the Ontario Municipal Employees Retirement Fund under authority of *The Ontario Municipal Employees Retirement System Act*, but shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

Idem

R.S.O. 1970,  
cc. 455, 324

**2.** No money shall be raised by way of loan under subsection 1 of section 1 except to the extent authorized by order of the Lieutenant Governor in Council made prior to the 30th day of September, 1980.

Limitation

**3.** This Act comes into force on the day it receives Royal Assent.

Commence-  
ment

**4.** The short title of this Act is *The Ontario Loan Act*, 1979.

Short title

## BILL 50

An Act to authorize the Raising of  
Money on the Credit of the Consolidated  
Revenue Fund

*1st Reading*

April 10th, 1979

*2nd Reading*

May 10th, 1979

*3rd Reading*

May 10th, 1979

THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics









